



Home Office

# Second progress report on the review of Powers of Entry

July 2013

## Executive Summary

The Government introduced the Protection of Freedoms Act 2012 to roll back state intrusion and restore civil liberties.

The Act contains measures to deal with powers of entry and in particular contains order making powers to:

- Repeal powers; add further safeguards to those that remain; re-write similar powers while enhancing the safeguards that apply to them (which will improve their transparency in legislation and reduce their number)

The Act also requires Ministers across Government to undertake a full review of powers of entry and examine and consider whether they are still necessary, proportionate and contain sufficient safeguards. The review will examine the current ‘stock’ of powers with a view to significantly reducing the number of powers on the grounds they are no longer justified or simply duplicate others.

The Act sets a two year deadline for formal ministerial responses by May 2014. Individual departments must, by this date, provide final reports which must contain findings and information relating to what will happen to powers. The Act does not require those changes to be made by May 2014. Ministers are keen that the work happens quickly and have agreed to report progress to Parliament every six months.

The Home Office has overall responsibility for the powers of entry review and is co-ordinating the work across Whitehall via a cross-departmental Steering Group which includes each department.

All departments have now submitted progress reports covering the second six month period of the review. While progress in reviewing powers continues to vary, all departments have demonstrated clear progress in identifying those powers of entry for which they hold responsibility and putting necessary review mechanisms in place and many have engaged in consultation. Some reviews of powers have now been completed and early action is being taken forward. For example, BIS proposes to consolidate a significant number of consumer law powers when an appropriate legislative opportunity arises.

In the next period of the review it is expected that many consultations will be completed and departments will focus on considering the available evidence and begin to develop final proposals. The Home Office will be the lead department on this work and that will include providing robust challenge where departments are proposing to retain a power.

The Government’s clear intention is to reduce the number of powers of entry in a significant way and will be approaching the review on that basis.

Alongside the review the Government continues to limit the creation of new powers of entry. A gateway process, operated by Home Office ministers, ensures that only those powers that are necessary, proportionate and supported by a sufficient package of safeguards are introduced.

Work is also underway to develop a Code of Practice to be issued under s48 of the Protection of Freedoms Act that will provide guidance and set out considerations that apply before, during and after powers of entry and associated powers are exercised. It is anticipated that the Code will be introduced to Parliament later this year.

This report comprises information that has been submitted by departments and will be placed in the Library of the House.

## Home Office (93 powers)

The Home Office is responsible for powers of entry relating to a wide range of policy areas including policing, immigration, terrorism, animals in scientific procedures and private security. Reviews of all powers are now underway with policy leads, where appropriate, undertaking consultation with key partners and considering this feedback.

While it is clear that many of these powers contribute significantly to public protection policy leads are beginning to identify powers that may be repealed, consolidated, or additional safeguards implemented. It is expected that clear, evidence supported, recommendations will begin to emerge during the next period.

Below is a more detailed summary of each policy area's progress to date.

### Drugs and alcohol (13 powers)

Further to initial informal consultation with the National Policing Drugs Standing Working Group, policy leads have consulted with the National Policing lead for Drugs to ascertain views on behalf of the UK police forces on the necessity and use of powers of entry under the Misuse of Drugs Act 1971 and Drug Trafficking Act 1994 in order to develop a sound evidence base.

Initial analysis has been conducted on responses received from the police, UK Border Force and SOCA. Formal and informal consultation will continue with key enforcement partners throughout the process.

Discussions continue to take place with the National Police Working Group for Licensing to ascertain their views on the necessity for existing powers under the Licensing Act 2003. Similar liaison has taken place with the Local Government Association which represents the interest of licensing authority officers/managers and representatives from the Fire Service.

Three powers have been identified for consideration for repeal, and a further four are under consideration for consolidation. Liaison with key licensing partners who will have a view on how these powers are currently used is ongoing, to gather further evidence to inform recommendations.

### Terrorism (15 powers)

Officials have consulted and are continuing to seek advice from the various stakeholders on the usage, necessity and proportionality of the 15 powers under consideration as part of this review. A number of responses have been received and are being considered to identify whether any amendments or additional safeguards are required and whether any powers can be consolidated.

In the next period officials will continue to analyse responses received from stakeholders and will commission a further short informal consultation with the users of each power to inform final recommendations.

### Animals in Scientific procedures (1 power)

Inspectors practice a risk based approach to exercising their powers. The risk factors and assessment process were formalised in 2011 and, following a one year trial, were agreed with ministers in June 2012. They are kept under review and have recently been reconfirmed by ministers in June 2013.

Inspectors also hold a formal Risk Management Meeting with establishment licence holders (those responsible for overall compliance at their establishment) at least once per year to advise how they may be able to mitigate their risk and hence require less frequent inspection.

As a result of the more formal risk based approach, the number of inspection visits per year has decreased from about 2,000 in 2010 to around 1,200 planned for 2013.

Officials will continue to consider whether further safeguards can be applied to this power.

## **Violent and Youth Crime Prevention (5 powers)**

Officials have consulted with police bodies about the powers of entry provided under the Criminal Justice Act 1988 and the Knives Act 1997. The initial policy review suggests there are no alternative powers in legislation that target the criminal behaviour and the powers are needed. Consideration is being given to whether the current package of safeguards is sufficient.

## **Judicial Cooperation (International) and extradition (11 powers)**

Sections 16 and 17 of the Crime (International Co-operation) Act 2003 (CICA) provide for a power of entry in response to a request for search and seizure from an overseas authority and extend domestic powers under the Police and Criminal Evidence Act 1984 (PACE) for this purpose. These powers may be amended in light of ongoing European Investigation Order negotiations.

It was agreed in this period that powers of entry under the International Criminal Court Act 2001 (ICCA) would be reviewed by the Home Office. The powers of entry under section 33 of ICCA implement international obligations to assist ICC investigations. There is therefore no scope to repeal this power. However, given the similarities with the powers under CICA officials will explore whether it is possible to consolidate this power.

Officials continue to consider whether there is scope to consolidate the two separate powers of entry in article 13(3) and article 23(3) of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 with the power of entry under the Proceeds of Crime Act 2002 and will consult with stakeholders as necessary.

Powers under the Extradition Act 2003 are necessary to enable police officers to assist in obtaining evidence pursuant to extradition requests from UK's extradition partners. Although the sections under the 2003 Act and PACE are similar in framework, they are different on purpose and object and cannot usefully be applied for extradition purposes.

## **Immigration and Border control (17 powers)**

Officials have continued their review of the powers of entry that are available to immigration officers and the Immigration Services Commissioner. They have been looking at whether their powers continue to be necessary, whether additional safeguards could be added and whether there is scope for consolidation. They have also been considering the implications of the PACE (Application to immigration officers and designated customs officials in England and Wales) Order 2013 which came into force on 25 June.

Powers of entry play a vital part in protecting the public from harm caused by illegal immigration and other abuses of the immigration system. In considering changes to these powers, officials are seeking to ensure the right balance between the need to protect the public from such threats and to safeguard civil liberties.

The Home Office expects to make significant progress on the review of the immigration and border related powers of entry it is responsible for during the next period.

## **Firearms (5 powers)**

Firearms matters remain complex and forces have stressed that they rely on the POEs as a last resort and will use them to ensure public safety at all times, when consent is not achievable. The initial policy review suggests there are valid reasons for keeping them at present for public safety reasons. However this will be further considered as part of the overall review.

Officials continue to consider whether the current safeguards associated with these powers are sufficient.

## **Organised Financial Crime (8 powers)**

Stakeholders have been consulted and business cases sought on the frequency of use, relevance and proportionality of the powers under consideration. Views have also been sought on whether the current safeguards are adequate or need to be strengthened. Responses have been received from a large and disparate range of stakeholders that will require further analysis, including consideration of whether powers can be consolidated. Officials continue to consider complex devolution issues under equivalent powers which extend to the devolved administrations.

In the next period officials will continue to analyse the use of powers and commission further work from stakeholders to underpin information obtained previously to enable firm views to be taken on the powers.

## **Antisocial Behaviour and Hate Crime (9 powers)**

Sections 1 and 3 of the Anti-social Behaviour Act 2003 relate to the closure of premises where drugs have been used unlawfully and Section 48 of that Act provides for graffiti removal notices. Both of these powers were reviewed by the Home Office in 2010-11 and were included in the list of powers to be repealed as part of reform of the anti-social behaviour 'toolkit'. The Anti-social Behaviour, Crime and Policing Bill was introduced to Parliament on 9 May 2013 and seeks to achieve these repeals

The Scrap Metal Dealers Act 2013 will repeal and replace the Scrap Metal Dealers Act 1964 which included two powers of entry. The new Act will come into force on 1 October this year, however officials have agreed transitional arrangements with Ministers to ensure that the Act can take practical effect and this will mean that new enforcement provisions including enhanced safeguards around the powers to enter and inspect will commence on 1 November.

Officials have been liaising with police forces, via the police hate crime lead to determine what powers police officers currently use in relation to offences under Part 3 and Part 3A of the Public Order Act (POA) 1986 (as amended). Officials were looking to find out whether the powers of entry under sections 24 and 29h of the POA are routinely used and whether the powers under section 8 of PACE could be utilised if sections 24 and 29h were repealed.

Initial findings reveal few prosecutions under Part 3 and Part 3A. Where officials have been successful in making enquiries with the police officials have found that the powers under the POA were not exercised in these cases – and non-warrant powers were available after the defendant's arrest.

Officials will continue to liaise with police forces to determine whether the specific safeguards afforded in section 24 and 29h of the POA, which are not covered in section 8 of PACE would be/ could be met and assess the impact that repealing these powers might have.

## **Private Security Industry (1 power)**

Officials have consulted with the Security Industry Authority (SIA), which has responsibility for exercising the Private Security Industry Act (PSIA) s.19 power. Although the power has only been used on two occasions between December 2012-May 2013 (and a total of 16 occasions over the last six years), the initial policy review by the SIA concluded that the s19 PSIA power should be retained. However this will now be further considered as part of the overall Home Office review. The relatively low exercise of this power is due to the SIA's preferred approach of first seeking willing co-operation and then to only exercise the power of entry when co-operation is not forthcoming and/or in the most serious instances of non-compliance. Whilst the power of entry is not widely used, its statutory presence remains a powerful deterrent in ensuring compliance of those who seek to avoid inspection, or not co-operate, in order to conceal criminality.

Furthermore, this power will become even more important when the SIA moves to business licensing. As businesses, compared to individuals, may have greater assets to conceal and as their ability to trade legally may be in jeopardy, they may have more to lose and may not, therefore, cooperate so willingly with compliance requests.

The existing safeguard to the power at s.19 PSIA already states that this power of entry should only be exercised: "... other than premises occupied exclusively for residential purposes as a private dwelling."

In the next period officials will continue to monitor, and consult with, the SIA on their use of the s.19 PSIA power.

## **Police powers under PACE (8 powers)**

All 8 powers are proposed to remain with the existing safeguards as provided for in PACE Code B.

All of these provisions are necessary to ensure that the police have appropriate powers to prevent, detect and investigate crime and maintain the balance between the interests of the whole community in bringing offenders to justice and the rights and liberties of persons suspected or accused of crime.

Officials continually monitor for any issues in relation to all such powers and to date nothing to indicate any deficiency with the powers in themselves, particularly in the context of civil liberties, has come to light. This monitoring will continue in the next period.

## **Department for Environment, Food and Rural Affairs (Defra) (434 powers)**

Defra is responsible for a wide range of legislation to protect the environment, animal, human and plant health.

Further work in this period to validate the list of powers has reduced the number of Defra-owned powers under review from 581 to 434. Defra has developed a clear timetable for reviews of powers to be completed over the next six months and a more detailed summary of selected policy areas' progress to date is available below.

## **Animal Health powers**

The animal health powers that had been identified and validated (13 powers in the Animal Health Act and 46 various powers of entry in secondary legislation) have been reviewed. All were considered to be necessary to control animal disease outbreaks, such as Rabies and Foot and Mouth. However this will be further considered as part of the overall Home Office review. The EU has published proposals for an Animal Health Framework Regulation (published on May 6th and likely to be in force in 2016). It is currently envisaged that the majority of domestic legislation dealing with animal health related matters will be systematically revoked and that the Animal Health Act may be repealed. The EU Framework Regulation will therefore have implications for all existing Animal Health legislation and will result in significant re-drafting of domestic legislation after 2016. The department will take this opportunity to either repeal or consolidate the entry powers for appointed inspectors when they implement the EU's proposals, and ensure that separate powers of entry contain consistent safeguards. Legislation will be redrafted to amend the powers of entry in line with Home Office guidance and the department will seek clearance through the Powers of Entry Gateway.

## **Marine Management Organisation (MMO)**

Officials have reviewed MMO's four common enforcement powers of entry contained in the Marine and Coastal Access Act (MCAA) 2009. They are content that all have adequate safeguards. However, they are aware that MMO enforcement officers may also derive powers from other fisheries legislation and they are in the process of reviewing these. They are also aware that at least sixteen powers of entry contained in a number of pieces of legislation will be revoked or repealed under the Marine Programme Red Tape Challenge Implementation Plan.

## **Environment Agency**

The Environment Agency (EA) has put forward proposals to consolidate a number of powers (from 20 to 3). Officials have almost completed the review and are in the final process of confirming with DECC that proposals will not cause enforcement issues for control of radioactive substances.

## **Nuisance**

The department has concluded that all the powers relating to noise and statutory nuisance are crucial tools for the effective functioning of the statutory nuisance regime. The powers do not contain all the Home Office's suggested safeguards around the number or types of people who can enter a property, and there are strong justifications for this. The broad nature of the statutory nuisance regime leads to a wide range of situations (pest/insect infestation) for which a number of different specialists (pest controller/locksmith) may need to be called upon to assist in protecting public health. A restriction on these specialists would curtail the effective functioning of the regime. The departmental review concluded that there is no scope to consolidate this legislation as each power deals with very specific and separate issues.

## **Wildlife species protection and management**

The Law Commission is currently reviewing wildlife species protection and management legislation and is due to report the conclusions of its review shortly. It is anticipated that the Commission will recommend the consolidation of much of the current legislation and therefore also powers of entry together into a new Act.

## CAP legislation

Negotiations in Europe for the reform of the CAP have concluded. As a result, a substantial amount of domestic legislation will be amended, revoked or replaced. It is anticipated that the new CAP regime will be in force by January 2015. The department will take this opportunity to either repeal or consolidate the entry powers and ensure that separate powers contain adequate safeguards. Legislation will be redrafted to amend the powers of entry in line with Home Office guidance and the department will seek clearance through the Powers of Entry Gateway.

### **Ministry of Justice (MoJ) (30 powers)**

Policy leads have been kept informed of progress in finalising the Code of Practice and asked to encourage stakeholders to provide views as part of the consultation on the Code in early 2013. Now that the Code is approaching its final form, policy leads have been asked to initiate their reviews. 11 powers of entry concern criminal offences and the department will be working with the Home Office on these reviews.

Work on reviewing powers will continue with the aim of completing the majority by November 2013. In some cases, broader policy developments are in progress and the timetable will be taking account of the overall framework for that policy.

### **Department for Business, Innovation and Skills (BIS) (147 powers)**

BIS is making good progress with reviewing powers. BIS has reviewed 91 powers as part of the consumer law powers review. These powers will be substantially consolidated in the draft Consumer Rights Bill, which was published for Pre-legislative scrutiny in June 2013.

During spring 2013 BIS launched consultations on three other powers of entry and is planning to launch a public consultation on 43 powers of entry shortly.

During the next period BIS plans to conclude consultations and finalise proposals for the remaining powers of entry. As part of this process the department will take several amended powers of entry through the Home Office Powers of entry gateway.

### **Department for Culture, Media and Sport (DCMS) (42 powers)**

The Department carried out a review of the powers of entry for which it has responsibility in 2010 and this internal review found that there were valid reasons for retaining the majority of them. It committed to keep these powers under review and consider whether their position to retain them remains justified. Over the next six months the Department will carry out a thorough review of these powers with a view to assessing if the underlying rationale and evidence of the extent to which they are used justifies keeping them or not. The Department expects to complete this review and come to final decisions at the end of 2013.

### **HM Treasury (HMT) (10 powers)**

HM Treasury has identified ten powers that will be reviewed under the Protection of Freedoms Act 2012. The review of these powers has begun and is on track to be completed in 2013 with any necessary legislation following in 2014.

## **Department for Communities and Local Government (DCLG) (65 powers)**

Between December 2012 and May 2013 DCLG has worked with Home Office and other Government departments to verify the set of powers that it is responsible for. The majority of DCLG's powers are exercised by Local Authorities, although some apply to private citizens and businesses involved with letting properties.

Policy teams have carried out initial reviews of their powers, working closely with relevant interested parties to understand how and when powers are used. To facilitate engagement with them, DCLG has held a workshop with key representatives from Local Authorities to discuss how powers are used, and which powers are not in line with Government aims. Based on these conversations, and other work done by policy teams, a set of provisional recommendations has recently been drawn up and considered by Ministers.

The work that has been done so far suggests that many of DCLG's powers appear to be in line with Government aims. For example, a significant proportion of the powers that DCLG is responsible for contain a warrant provision for entry where consent is refused, and are thus in line with the key Government aim that entrance to private dwellings is either by consent or judicial authorisation.

However, it is likely that a number of the powers that belong to DCLG will require reform in order to be brought into line with Government aims on powers of entry. Officials will continue to work with Local Authorities and other key partners so that all relevant opinions have been taken into consideration, and that all possibilities for reform have been considered.

Given that many of the relevant powers are essential for Local Authorities to fulfil specific statutory duties, the focus is on ensuring that powers have sufficiently strong safeguards around their use. Over the next period officials will continue to build the evidence base and test early recommendations made to Ministers, so as to prepare a robust package of amendments to ensure that the powers are in line with Government aims on proportionality.

The department is confident that the work it is taking forward in this period will enable it to have a full set of recommendations to bring powers into line with Government aims, as set out in the Code of Practice.

## **Department for Transport (DfT) (103 powers – this does not include powers held by ports or under Transport and Works Act Orders)**

The main work this period has been an invitation to more than 200 ports to involve themselves in the review. As statutory harbour authorities, ports often have powers of entry available to them under their specific legislation.

In the next period work on powers of entry available to ports will continue. Work will be taken forward to review powers of entry in orders made under the Transport and Works Act 1992. Reviews for other outstanding powers will be completed.

## Department for Education (DfE) (48 powers)

### Decisions taken to repeal:

The department is about to repeal the duty placed on a head teacher and governing body to permit monitoring authorities to enter schools to monitor the administration of Single Level Tests.

### Decision taken to amend:

Reforms to the Children's Commissioner, including powers of entry, are part of the Children & Families Bill, which has recently completed Commons Committee stage. The proposed legislation would amend the 2004 Act, in line with recommendations from a review commissioned by the Secretary of State and carried out by Dr John Dunford. The Children's Commissioner's powers of entry would remain largely the same as now, allowing the Children's Commissioner to interview children, but the reforms clarify that the power enables the observing of standards of care and interviewing staff, in line with actual practice. The Commissioner will not have any enforcement powers and the legislation prohibits entry into private dwellings.

Expanded powers currently set out at s327 of the Education Act 1996 were included in the Children and Families Bill. These powers give a local authority the right to access a school, post-16 institution or other institution, where it is attended by a child or young person with an Education, Health and Care plan (which will replace statements under the Bill). Local authorities are currently under a statutory duty to arrange the special educational provision set out in a statement. They will be under a similar duty to arrange for the special educational provision set out in plans. They cannot do this unless they can monitor provision. It is important that "vulnerable" children receive the provision they need in order to progress.

### Decisions taken not to amend:

Officials consulted stakeholders, including the Local Government Association and the Association of Directors of Children's Services, about the scope to remove or amend powers of entry relating to the safeguarding children. However these powers serve vital functions and could not be removed without compromising the local authority's duty to safeguard and promote the welfare of children. Children would be at risk if the powers were to be repealed or delays and obstacles were put in the way. The department has concluded that safeguarding powers of entry are all necessary, proportionate and essential for the protection of children and need to be retained unchanged. This will now be further considered as part of the overall review.

Powers at s497B of the Education Act 1996 underpin the Secretary of State's power to make directions where he is satisfied a local authority has failed to perform education functions or certain children's social services functions. They allow access to premises, records and documentation. Powers at s64 of the Education Act 2002 underpin the SoS's direction-making power at s62A to enter local authority premises (e.g. schools) to inspect and take copies of any documents or access e.g. computers specifically where Ofsted finds that a local authority has a disproportionate number of underperforming schools. The department has concluded that whilst these powers are similar, their scope is different and they could not be used for the same purposes. Without these powers of entry, the power to give direction may be impossible to carry out.

## Forecast / Next Period:

Officials have consulted the Local Government Association and the Association for Directors of Children's Services for their views on whether two sections of the Adoption and Children Act 2002 (s15 – to check conditions where an adopted child will live, and s.41(2)(d) – to search for and recover a child removed in breach of removal restrictions) are still required. The review is ongoing.

It is essential for Ofqual to retain their powers to enter an awarding body's premises to determine that they are maintaining appropriate standards. These powers will be reviewed again following the implementation of the qualifications reform programme.

Powers of entry are currently used to grant school access to local authority officers to monitor and moderate statutory Key Stage 1 and Key Stage 2 testing and assessment. Officials will be consulting a selection of local authorities to consider the implications of removing these powers, including the impact on their ability to carry out their statutory responsibilities.

Officials are currently carrying out a review of Ofsted's powers with Ofsted and anticipate that final decisions on Ofsted's powers will be made over the summer.

## Department for Work and Pensions (DWP) (15 powers)

### Private Pensions (4 powers)

The department considers that these powers have been shown to be necessary in order to safeguard member benefits. It is anticipated that they will continue to be an important element in enforcing the obligations relating to automatic enrolment as this is rolled out over the next few years.

Officials have been working with the Pensions Regulator and the Pension Protection Fund to understand the effect that further safeguards would have on their ability to operate in an environment where there are new duties on employers to comply with automatic enrolment and rising concern about pensions liberation fraud. Possible options are being considered.

### Child Maintenance Group (1 power)

The power is necessary in order to gather evidence to prevent non compliance with the request for information, permitting accurate and appropriate calculation of child maintenance assessments. It is an essential tool enabling the enforcement of debt and gathering of evidence to support criminal prosecutions.

The exercise of this power has reduced significantly from some 386 per month during the first seven months of the financial year to 178 per month during the last five months. This reduction has been caused by changes in relation to the use of acceptable and verbal evidence. The intention is to replace use of section 15 power when seeking information from deposit takers such as banks or building societies with use of Child Support Information Regulations 2008. These are not visiting powers and as most section 15 requests are used to deposit takers this will significantly reduce the need for powers of entry to be invoked. Liaison is about to commence with the British Banking Association and Building Society Association regarding use of this alternative non visiting power in the future.

The power of entry is still required for information gathering in relation to those individuals or bodies who are not required to comply using the Child Support Information Regulations 2008.

## **Fraud Investigation Service (1 power)**

The power is necessary for the DWP via the Fraud Investigation Service (FIS) to follow up statutory requests for information. This does not allow 'forced entry' but there are criminal penalties for obstruction. This is an essential tool in enabling the prevention and detection of social security benefit fraud.

Work is continuing into addressing the requirements of the Single Fraud Investigation Service (SFIS) which will replace FIS by 2015 and will see the uniting of the investigative powers of DWP, Local Authorities and HMRC (in respect of tax credit fraud).

## **Health and Safety Executive (9 powers)**

HSE has identified nine pieces of legislation containing powers of entry and/or relevant associated powers. One has been identified as no longer necessary, two have only recently come into force and have passed through the Home Office Powers of Entry Gateway, four contain powers that are still relevant and are considered necessary by stakeholders and two remain under review.

Officials are considering whether any powers may be consolidated. Reviews of all HSE powers are expected to be completed in the next period.

## **Department for Energy and Climate Change (DECC) (52 powers)**

To date DECC has initiated consultations with respect to 52 powers of entry; and has completed reviews for 23 of these powers. Two powers of entry are being rewritten in the Energy Bill, which is currently completing its Parliamentary stages. Of the 23 powers of entry reviewed so far, DECC plans to retain 14 powers. Seven powers of entry have already been identified for repeal. The key next step for DECC is to complete reviews of the remaining 29 powers of entry and make recommendations to Ministers; and then to conclude and present the results of DECC's review of all 52 powers of entry by November.

## **Ministry of Defence (MOD) (20 powers)**

The second MOD PoE review working group took place. It analysed all 20 of the existing powers of entry again.

The Energy Bill introduced provisions to allow the possible future sale of the Government Pipeline and Storage System (GPSS). This might affect the continued requirement of some of the MOD land powers of entry in the longer term. Monitoring of Bill and the potential sale of the GPSS continued throughout this review period. However, a formal decision on disposal of the GPSS has not been taken. This is expected when final provisions in the Bill are known and a value for money assessment undertaken. A full review of PoE related to the GPSS has therefore not yet been possible.

Work in this period has highlighted the need for clearer guidance to COs in existing statutory Codes of Practice. This work will continue over the next reporting period.

Reviews of all MOD PoE will continue in the next period. The MOD PoE Working Group is expected to be able to make a more thorough assessment and review of the MOD land related PoE associated with the GPSS in the next period, or form part of the final MOD departmental report at the conclusion of the two year review period.

## Department of Health (DH) (56 powers)

Preliminary reviews have been carried out on all powers to determine policy ownership and whether these remain in DH. These preliminary reviews have identified key themes that indicate there may be scope for consolidating similar powers – for example, the NHS Commissioning Board has separate powers of entry to inspect workplaces for different professions within the NHS.

This will be confirmed when reviews of powers are completed, scheduled for Summer/Autumn 2013.

In the next period the DH working group will meet to complete the review. Drafting of final DH report and work to repeal / consolidate / rewrite legislation will begin.

## HM Revenue and Customs (HMRC) (36 powers)

HMRC's main focus over the last quarter has been on the draft Code of Practice where it has been working closely with the Home Office to identify the impact for HMRC's compliance work. Valuation Office Agency (VOA) has formed a working group to examine their inspection, and related information recording, procedures in the light of the Code.

Progress on reviews has been delayed by having to put a considerable amount of resource into work on the Code.

Officials expect HMRC's and VOA's reviews to be completed in the next period.

## Food Standards Agency (FSA) (29 powers)

Proposals for the consolidation of powers and the consideration of additional safeguards have been proposed internally by policy officials and the FSA legal team. OGDs have been consulted on the proposals ready for external consultation.

Informal and formal consultation will take place during this period for all the powers under FSA responsibility. An Impact Assessment will be developed for a three month consultation to take place over the summer. A draft review report taking into account the consultation responses will be developed for the FSA Board to consider at the end of the year.

## Foreign and Commonwealth Office (FCO)

The FCO has been responsible for the introduction of three Acts of Parliament which include a total of 11 powers of entry clauses that require consideration in this review. The FCO introduced these Acts in the UK to meet international legal obligations and considers it important to retain the powers of entry which they provide, to ensure that the UK remains in full compliance with its international obligations. But the FCO is not involved in their implementation in the UK. FCO and Home Office officials are considering how best to carry out the reviews of the powers of entry under these Acts.

**The Cluster Munitions Act** was enacted in 2010 to enable the UK to comply with international obligations under the Convention on Cluster Munitions signed by the United Kingdom at Oslo on 3 December 2008. This domestic Act enables a Secretary of State to authorise a person to enter and search for prohibited munitions. It also enables a justice of the peace to issue a warrant authorising a person acting under the authority of the Secretary of State to enter and search premises if the justice of the peace is satisfied, on information on oath, that there are reasonable

grounds for suspecting that an offence under this Act has or is about to be committed or that there are reasonable grounds for suspecting that evidence of the commission of an offence under this Act is to be found on the premises.

**The Landmines Act** was enacted in 1998 to enable the UK to comply with its international obligations under the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. This Act enables a Secretary of State to authorise a person to enter premises and search them; to enter premises and destroy an object; or to issue a warrant to enter premises by force and destroy an object if it is found there. It also enables a Secretary of State to issue authorisations for persons for the function of fact finding missions in the UK. It allows a justice of peace to issue a warrant authorising a person acting under the authority of the Secretary of State to enter a premises, by force if necessary, and search them.

It has been agreed that Home Office will review powers of entry under the International Criminal Court Act (2001) with input from FCO as necessary.

FCO officials are also consulting on the application of the statutory review obligation under the Protection of Freedoms Act 2012 to Orders implementing sanctions in the Overseas Territories.

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