House of Commons Library

Research Briefing

6 March 2025

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Crime and Policing Bill 2024-25

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Summary

The Crime and Policing Bill 2024-25 was published on 27 February 2025. The bill is listed for second reading on 10 March 2025.

What would the bill do?

The bill has a very broad scope. The government says the bill supports the delivery of its 'safer streets' mission, which includes targets to halve knife crime and violence against women and girls in a decade, and 'transform neighbourhood policing'. It also includes many measures beyond these aims.

Across 15 parts, 137 clauses and 17 schedules, the bill includes measures aimed at addressing knife crime, violence against women and girls, anti-social behaviour, retail crime, serious and organised crime, fraud, theft, public order, terrorism, sexual offending and more.

It consists of several general election manifesto commitments, several measures carried over from the previous government's Criminal Justice Bill 2023-24, and other legislative changes.

Anti-social behaviour

The government has committed to tackle anti-social behaviour as part of its safer-street mission.

Part 1 of the bill would introduce of a new 'respect order', allowing local authorities and police to impose restrictions on people who commit anti-social behaviour, and which would include a criminal sanction on breach. Other measures will amend existing powers under the Anti-social Behaviour, Crime and Policing Act 2014, including removing the need for the police to issue a warning before seizing vehicles associated with anti-social behaviour.

Knife crime

The government has committed to halve knife crime in a decade, through a combination of policy and legislative reforms.

Part 2 of the bill would introduce a new offence of possessing a knife or offensive weapon with intent, increase the maximum penalty for manufacturing, selling, hiring, or lending prohibited weapons, and give the police greater powers to seize knives from properties.

The government has named its package of legislative reforms on knife crime 'Ronan's law', after Ronan Kanda, who was murdered in 2022 by two 16-year-olds using ninja swords bought online and collected from a post office.

Shoplifting and assaults on shop workers

Amid reported increases in assaults against shop workers and shoplifting, part 3 of the bill would create a new offence of assaulting a retail worker.

It would also amend legislation so that all shop thefts involving an alleged offence under section 1 of the Theft Act 1968 would be triable either way (in a magistrates' court or the Crown Court), regardless of the value of the goods stolen. This would aim to "remove any perception that offenders will escape punishment" for low value shoplifting.

Safeguarding vulnerable people

Part 4 of the bill would include measures aimed at protecting children and vulnerable people, including creating new offences of child criminal exploitation and 'cuckooing', often associated with county lines drug dealing.

It would also establish new offences of spiking and encouraging or assisting serious self-harm.

Sexual offences

Part 5 of the bill would introduce several measures aimed at tackling child sexual abuse and other sexual offending.

This includes implementing two recommendations from the Independent Inquiry into Child Sexual Abuse. It would make grooming a statutory aggravating factor when sentencing an adult for a child sex offence and create a statutory duty for certain individuals to report child sexual abuse.

It would also introduce measures to tackle the creation and possession of child sexual abuse material and putting the child sex offender disclosure scheme, 'Sarah's law', on a statutory footing.

It would also introduce several new offences relating to the taking of intimate images and voyeurism.

Police powers

Part 9 of the bill would reintroduce some of the previous government's proposals to create new offences related to protests, such as banning face coverings, pyrotechnics, and climbing war memorials.

Part 10 of the bill includes measures to allow the police to enter premises without a warrant to search for electronically tracked stolen goods, and conduct drug tests in custody for a wider range of offences and drugs.

Police misconduct investigations

Part 13 of the bill would reform certain arrangements for the handling of complaints and conduct matters against the police, in the context of concerns about both complainants and the rights of officers under investigation. These measures were first proposed by the previous government as amendments to the Criminal Justice Bill.

Youth radicalisation

Part 14 of the bill would introduce measures aimed at tackling youth radicalisation, announced as the initial response to the 'counter-extremism sprint' established by the government following the general election.

These would take the form of 'youth diversion orders', a counter-terrorism risk management tool available to people under 21. The police would be able to apply to the courts for an order, which could require or prohibit certain conduct, if necessary and proportionate to mitigate terrorist risk.

The bill would also implement, or build upon, a number of recommendations of the independent reviewer of terrorism legislation, Jonathan Hall KC.

How does it compare to the Criminal Justice Bill?

This bill includes many provisions first proposed by the Conservative government under the Criminal Justice Bill 2023-24, albeit often in amended form.

The Criminal Justice Bill fell at dissolution before the general election 2024. It had not completed its report stage in the House of Commons. The Library briefings Criminal Justice Bill 2023-24 (November 2023) and Criminal Justice Bill: Progress of the Bill (May 2024) provide more detail on that bill.

Under the Criminal Justice Bill, the government, opposition and backbenchers tabled many amendments on a range of issues, including on public order, abortion, cuckooing and police accountability. Some of these proposals have re-emerged within this Crime and Policing Bill, and others haven't.

Given the very wide scope of this bill, MPs will have opportunities to table a wide range of amendments as it progresses through Parliament.

1 The bill: An overview

The following supporting government documents have been published alongside the bill:

- Explanatory notes
- Human rights memorandum
- Delegated powers memorandum
- Economic notes
- Impact assessments

The government has also published a series of factsheets.

This Library briefing provides further background and analysis to the bill. Below provides an overview of the structure of the bill and relevant sections within the briefing.

1.1 Anti-social behaviour (clauses 1 to 9)

These clauses would:

- create a new civil order called a 'respect order'
- increase the timeframe that dispersal orders and closure notices can be put in place
- increase the maximum fixed penalty notice that could be issued for a breach of a community protection notice or public space protection order
- remove the need for the police to issue a warning before seizing vehicles associated with anti-social behaviour

See section 2 of this briefing.

1.2 Knife crime (clauses 10 to 13)

These clauses would:

- create a new offence of possessing a knife or offensive weapon with intent
- increase the maximum penalty for manufacturing, selling, hiring, or lending prohibited weapons
- give the police greater powers to seize knives from properties

See section 3 of this briefing.

1.3 Shoplifting and assaults on shop workers (clauses 14 to 16)

These clauses would:

- create a new offence of assaulting a retail worker
- amend legislation so that all shop thefts involving an alleged offence under section 1 of the Theft Act 1968, would be triable either way, regardless of the value of the goods stolen

See section 4 of this briefing.

1.4 Child criminal exploitation and cuckooing (clauses 17 to 33)

These clauses would:

- create an offence of child criminal exploitation
- establish child criminal exploitation prevention orders
- provide for a new offence of cuckooing.

See section 5 of this briefing.

1.5 Sexual offences (clauses 36 to 58)

These clauses would:

- introduce several new offences aimed at tackling the proliferation of child sexual abuse material

- amend several existing offences involving sexual activity in the presence of a child or a person with a mental disorder
- create a new statutory aggravating factor when sentencing an adult for a child sex offence involving the grooming of a child
- give Border Force officers the power to search devices suspected of storing child sexual abuse images
- introduce a new statutory duty for certain individuals to report child sexual abuse
- put the child sex offender disclosure scheme on a statutory footing
- replace the existing offence of sexual penetration of a corpse with a wider offence of sexual activity with a corpse
- introduce several new offences relating to the taking of intimate images and voyeurism
- amend the offence of exposure

See section 6 of this briefing.

1.6 Stalking (clauses 69 to 72)

These clauses would

- allow for stalking protection orders to be imposed in a wider range of circumstances
- enable the Secretary of State to issue statutory guidance about stalking
- enable the Secretary of State to issue guidance to the police about the disclosure of police information for the purpose of protecting persons from risks associated with stalking

See section 7 of this briefing.

1.7 Protection of persons (clauses 73 to 77)

These clauses would:

- establish new offences of spiking and encouraging or assisting serious self-harm

- extend the offence of child abduction to cover cases where a parent detains the child outside the UK
- bring supervised roles back within the scope of regulated activity

See section 8 of this briefing.

1.8 Management of offenders (clauses 59 to 68 and clauses 104 to 105)

These clauses would:

- make new provisions for the management of registered sex offenders
- expand the use of polygraph testing for people convicted of a wider range of offences
- require anyone serving a community sentence to inform their responsible officer if they use a different name

See section 9 of this briefing.

1.9 Serious crime: Theft and fraud (clauses 78 to 85 and clause 92)

These clauses would create offences related to the possession or supply of items used to steal cars or to commit fraud and create a power to suspend IP addresses and domain names linked to serious crime.

See section 10 of this briefing.

1.10 Public order (clauses 86 to 90)

These clauses would create offences of concealing identity or possessing pyrotechnics at a protest, and climbing specified war memorials.

See section 11 of this briefing.

1.11 Police powers (clauses 93 to 100)

These clauses would allow the police to enter premises without a warrant, to search for electronically tracked stolen goods, and conduct drug tests in custody for a wider range of offences and for a wider range of drugs.

See section 12 of this briefing.

1.12 Proceeds of crime (clauses 102 to 103)

These clauses would amend the confiscation regime provided for by parts 2 and 4 of the Proceeds of Crime Act 2002 ('POCA'). They would give effect to the Law Commission's recommendations to:

- introduce a statutory objective for the confiscation regime
- better prioritise compensation for victims and legitimate third-party interests
- create a procedure for the early resolution of confiscation
- make it easier to restrain assets to preserve their value during an investigation
- extend the enforcement powers of the magistrates' courts to the Crown Courts.

See section 13 of this briefing.

1.13 Police standards and accountability (clauses 106 to 109)

These clauses would:

- reform the arrangements for the handling of complaints against the police and the investigation of conduct matters
- place the IOPC's Victims Right to Review policy on a statutory footing
- create a power for the Secretary of State to make rules enabling a statutory route of appeal to the police appeals tribunal for chief officers

See section 14 of this briefing.

1.14 Terrorism and national security (clauses 122 to 126)

These clauses would:

- introduce new counter-terrorism youth diversion orders
- widen the definition of offensive weapon in the Terrorism Prevention and Investigation Measures Act 2011 and the National Security Act 2023
- widen the offence of displaying or wearing an article associated with a proscribed organisation so that it also applies in prisons and other places of detention

See section 15 of this briefing.

2 Antisocial behaviour

Through this bill, the government intends to establish a new civil order for adult perpetrators of anti-social behaviour and to strengthen other existing powers to address anti-social behaviour. In summary:

- Clause 1 would create respect orders, a new type of civil order that could be imposed on adults who had engaged or threatened to engage in anti-social behaviour. It would be a criminal offence to breach to terms of a respect order. Clause 2 and schedule 1 would repurpose existing anti-social behaviour civil injunctions into 'youth injunctions' (for those aged 10 to 17 years old) and 'housing injunctions' (for adults engaged in housing-related anti-social behaviour).
- Clause 3 would increase the maximum timeframe for a dispersal order or closure notice from 48 to 72 hours. Clause 5 and schedule 2 would extend the power to issue a closure notice to registered social housing providers.
- Clause 4 would increase the maximum fixed penalty notice that could be issued for a breach of a community protection notice or public space protection order from £100 to £500.
- Clause 6 and schedule 3 would enable local policing bodies to conduct reviews into how reports of anti-social behaviour have been handled by the police or other agencies in their area.
- Clause 7 would allow the Secretary of State to specify in secondary legislation what data on anti-social behaviour must be supplied by local agencies to the government.
- Clause 8 would remove the need for the police to issue a warning before seizing vehicles associated with anti-social behaviour.
- Clause 9 would enable the Secretary of State to issue statutory guidance to English waste collection authorities on addressing fly-tipping.

These measures would only apply to England and Wales.

2.1 Respect orders

Clause 1 would create respect orders, a new type of civil order that could be imposed on adults who had engaged or threatened to engage in anti-social behaviour. An order could be used to place restrictions or an individual or

require them to engage in services. Unlike existing civil injunctions, it would be a criminal offence to breach to terms of a respect order.

Background

The Labour Party committed to introduce new 'respect orders' in its 2024 general election manifesto, to "to ban persistent adult offenders from town centres" and to "stamp out issues such as public drinking and drug use".[1] The government re-committed to introducing the new order in the background notes to the King's Speech in July 2024.[2]

Respect orders would partially replace anti-social behaviour civil injunctions, provided for under part 1 of the Anti-social Behaviour, Crime and Policing Act 2014. They would sit alongside criminal behaviour orders (see box 1).

The police, local authorities and some other specified agencies can apply to the courts to impose an anti-social behaviour civil injunction.[3] The court can impose an injunction on any individual aged 10 or over, where it is satisfied that 'on the balance of probabilities' (the civil standard of proof) they have or will commit anti-social behaviour.[4]

An injunction can prohibit an individual from doing certain things, or going to certain places. It can also place positive requirements, for example requiring attendance at drug or alcohol services.[5]

It is not a criminal offence to breach an anti-social behaviour civil injunction. Unless a court specifically attaches a power of arrest to the injunction, the police cannot automatically arrest those who breach the terms of their injunction. The court can only attach a power of arrest in circumstances where the individual has used or threatened violence or presents a 'significant risk of harm' to others.[6] Otherwise, where someone does breach their injunction, the court must first issue a warrant for an arrest.[7]

While breaching the terms of a civil injunction is not a criminal offence, an individual can be found guilty of the civil offence of 'contempt of court', for

1 The Labour Party, 2024 general election manifesto ['cracking down on antisocial behaviour']. The party first made the commitment to introduce respect orders in February 2023, see: The Telegraph, Labour will reintroduce tougher Asbos with powers to make arrests, 19 February 2023

2 UK Government, The King's speech 2024, July 2024

3 Section 5, Anti-social Behaviour, Crime and Policing Act 2014

4 Section 1, Anti-social Behaviour, Crime and Policing Act 2014

5 Section 1 (4), Anti-social Behaviour, Crime and Policing Act 2014

6 Section 4, Anti-social Behaviour, Crime and Policing Act 2014. Through its Criminal Justice Bill 2023-24, the Conservative government sought to loosen restrictions on when a power of arrest could be attached to an injunction, to whenever a court deemed it "appropriate to do so". This followed its 2023 consultation which proposed to extend the power of arrest to all breaches of civil injunctions. The then Shadow Home Secretary, expressed support for this measure (HC Deb 28 November 2023, cc735-736). The bill fell at dissolution before the 2024 general election.

7 Section 10, Anti-social Behaviour, Crime and Policing Act 2014

failing to adhere to a court order. This carries a maximum penalty of an unlimited fine, two years' imprisonment, or both.[8]

In a ministerial statement in November 2024, the Policing Minister said that the existing legislative framework made it difficult and time-consuming for the police and other agencies to enforce the terms of a civil injunction.[9] She outlined plans for respect orders, specifying that the orders would carry a criminal sanction on breach.

1 Criminal behaviour orders

Criminal behaviour orders (CBOs) are an existing measure originally introduced by the Anti-social Behaviour, Crime and Policing Act 2014 to replace measures including anti-social behaviour orders. CBOs are now governed by sections 330 to 342 of the Sentencing Act 2020.

Section 330 of the 2020 act provides that the purpose of a CBO is "preventing an offender from engaging in behaviour that is likely to cause harassment, alarm or distress to any person", and that it may achieve this by prohibiting or requiring the offender to do "anything described in the order". For example, a CBO could prohibit the offender from entering a certain area or require them to attend an education or behaviour course.

Under section 331 of the 2020 act, the court only has the power to make a CBO where a person has been convicted of an offence and the prosecution applies for a CBO. The Crown Prosecution Service has issued legal guidance for prosecutors to consider when deciding whether to apply for a CBO.[10]

The court may make a CBO if the following conditions are met:

- the court is satisfied that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person, and
- the court considers that making the CBO will help in preventing the offender from engaging in such behaviour

Under section 339 of the 2020 act, breach of a CBO is a criminal offence carrying a maximum sentence of five years' imprisonment and/or a fine.

8 Home Office, Anti-social behaviour powers: statutory guidance for frontline professionals, March 2023, 2.1

9 Hansard, Respect Orders and Antisocial Behaviour, 27 November 2024

10 Crown Prosecution Service, Criminal Behaviour Orders, updated 9 August 2024

Stakeholder reaction

Some stakeholders have welcomed the announcement of respect orders. Deputy Chief Constable Andy Prophet, National Police Chiefs' Council lead for anti-social behaviour, is quoted by the government as saying that "Respect Orders will give the police and councils the ability crack down on those who persistently make our streets and public spaces feel unsafe."[11]

Resolve, a community safety organisation, welcomed the government's announcement, as did Baroness Newlove, the Victims' Commissioner. However, both suggested respect orders would need to be accompanied with greater support for victims of persistent anti-social behaviour.[12]

The government has been criticised for the proposed use of a criminal sanction on breach for respect orders. The campaign group StopWatch has raised concerns that this could lead to people being unfairly criminalised.[13] This mirrors broader concerns expressed by academics over the increasing use of civil orders for people engaged in "minor-offences or sub-criminal behaviour" that carry significant criminal sanctions, including possible imprisonment.[14]

The bill

Clause 1 would establish respect orders, by inserting a lengthy new part with 14 sections ('A1 to N1') at the start of the Anti-social Behaviour, Crime and Policing Act 2014. Under the proposals:

- A court could impose a respect order against a person who, on the balance of probabilities, has "engaged in or threatens to engage in anti-social behaviour". The court must be satisfied it is 'just and convenient' to make the order.

- A respect order could be applied for by a local authority, police force, Transport for London, Transport for Greater Manchester, and the Environmental Agency, among others. A housing provider could also apply, though only where the anti-social behaviour directly affects the housing site it manages.[15]

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11 Home Office, New powers to clamp down on anti-social behaviour, 22 November 2024

12 Resolve, Our Response to the New Powers Announced Today, 22 November 2024; Victims' Commissioner, Questions raised over effectiveness of Respect Orders and 'hotspot' policing in tackling persistent anti-social behaviour, 22 November 2024

13 StopWatch, Labour party shadow home secretary urges young people to show a little respect, 13 October 2023

14 G Pearson, C Werren, 'Check terms and conditions: Scrutiny, human rights and civil preventative powers' [2024] *Public Law* (Oct) 648-673

15 The full list of agencies is specified in Clause 1, B1. New section B1 would confer a power for the Secretary of State to amend the list of authorities (B1) and associated definitions (N1) that can apply for a respect order via secondary legislation. The Secretary of State would need to consult Welsh Ministers, and secondary legislation would be subject to the draft affirmative procedure. For more info, see: Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), p.3

- A respect order could include 'anything' for the purpose of addressing the anti-social behaviour, including both prohibitions (for example, banning someone from a certain area, or participating in certain behaviours) and positive requirements (for example, attending alcohol support services). A breach of a respect order can be triggered by non-compliance with any prohibition or requirement.

- There is no limit on how long a respect order can last for.

These proposed procedures are the same for existing anti-social behaviour civil injunctions. [16]

However, unlike anti-social behaviour civil injunctions, respect orders would only be available for adults aged 18 or over and the breach of a respect order without 'reasonable excuse' would be a criminal offence, triable either way (rather than treated as a civil contempt of court).[17]

As a criminal offence, the police would also be able to arrest an individual for breaching the conditions of their order. The offence would carry a maximum penalty on conviction in a crown court of two years' imprisonment, a fine, or both.[18]

In addition, the bill would create new procedures for issuing and monitoring compliance with respect orders. It would require that:

- Any authority applying for a respect order would first need to carry out a risk assessment.[19] Any authority applying for an order must also have regard to statutory guidance on respect orders, to be issued by the Secretary of State.[20]

- A specified individual or organisation would be responsible for supervising compliance with any positive requirements. This could include voluntary sector organisations delivering interventions.[21]

- The individual responsible for supervising compliance must provide a written warning to anyone who fails to comply with positive requirements. The warning would state that further non-compliance within a period of 12 months will be considered a breach.[22]

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16 The definition, legal test, list of relevant agencies and provision for both prohibitions and positive requirements for respect orders are the same as for anti-social behaviour civil injunctions, under part 1, Anti-social Behaviour, Crime and Policing Act 2014.

17 The bill does not specify what constitutes a 'reasonable excuse'.

18 Clause 1, I1

19 Clause 1, JI

20 Clause 1, M1. Statutory guidance will not be binding and does not require approval from Parliament. For more info, see: Home Office, Crime and Policing Bill - delegated powers memorandum (pdf), pp.4-5.

21 Clause 1, D1

22 Clause 1, H1

Clause 2 and schedule 1 of the bill would amend part 1 of the Anti-social Behaviour, Crime and Policing Act 2014, to reflect that respect orders will largely replace anti-social behaviour civil injunctions for people over 18. The amendments would:

- Rename 'anti-social behaviour civil injunctions' as 'youth injunctions' and restrict their use to 10–17-year-olds. These would continue to work in the same way as anti-social behaviour civil injunctions.[23] The only additional requirement this bill would introduce is for a risk assessment to be conducted by anyone applying for an order (similar to the requirement for respect orders under clause 1, J1).

- Create 'housing injunctions', a civil order specifically related to those who have "engaged or threaten to engage in housing-related anti-social behaviour". Aside from specifically being used for housing-related behaviour, these would work in the same way as anti-social behaviour civil injunctions. The only additional requirement this bill would introduce is for a risk assessment to be conducted by anyone applying for an order (similar to the requirement for respect orders under clause 1, J1). They would only be available to people over 18. A court could decide on application of either a respect order or a housing injunction, to issue the alternative order instead, if deemed appropriate.[24]

[23] Anti-social behaviour civil injunctions can already be applied to children 10-17 years of age by a youth court, on condition that any application follows consultation with the youth offending team. This is unchanged in the bill.

[24] A1(8) and

2 ASBOs vs respect orders

Some coverage has suggested that respect orders are a revival of 'anti-social behaviour orders' (ASBOs).[25] ASBOs were available in England and Wales from 1998 until their repeal by the coalition government in 2014.[26]

Like respect orders, ASBOs were civil orders with a criminal sanction on breach. However, there are some differences between the two:[27]

- ASBOs were applied to children as young as 10, whereas respect orders would be available for over 18s only.
- ASBOs could only include prohibitions, whereas respect orders would include both prohibitions and positive requirements.

ASBOs were ultimately replaced with anti-social behaviour civil injunctions and criminal behaviour orders under the 2014 act, after concerns over the decline in use and effectiveness of ASBOs.[28]

2.2 Dispersal and closure notices

Clause 3 would expand and strengthen existing powers for authorities to disperse people and close premises.

Background

In 2023, the previous government ran a consultation on proposals to strengthen powers available to address antisocial behaviour under the Anti-social Behaviour, Crime and Policing Act 2014.[29] This was part of a package of measures first outlined in the 2023 anti-social behaviour action plan aimed at

25 For example, see: The Times, Yvette Cooper's 'respect orders' signal return of the Asbo, 21 November 2024; BBC, Asbo for adults: Doubts cast over respect orders, 29 January 2025; Browne Jacobson, Respect Orders: Will they actually make a difference?, 10 February 2025

26 ASBOs are still available in Scotland and NI, under section 4 of the Antisocial Behaviour etc. (Scotland) Act 2004 and Anti-social Behaviour (Northern Ireland) Order 2004.

27 A previous version of this briefing stated that ASBOs were applied with the criminal standard of proof. This standard of proof was not specified in the legislation, but was applied following a judgment in the House of Lords, *Clingham v Royal Borough of Kensington and Chelsea* [2002] UKHL 39. However, in 2023 a Supreme Court judgment stated that the reasoning in McCann was flawed and that the civil standard of proof on the balance of probabilities should have applied to ASBOs, *Jones v Birmingham City Council & Anor* [2023] UKSC 27.

28 House of Commons Library, Tackling anti-social behaviour, April 2020, section 3.1

29 Home Office, Community safety partnerships review and antisocial behaviour powers, 14 November 2023

giving "the police and other agencies the tools they need to act and restore pride in our communities".[30]

Following the consultation, the government included several clauses in its Criminal Justice Bill 2023-24 to strengthen anti-social behaviour powers.[31] During the passage of the bill, the Labour Party in opposition broadly supported the measures.[32] The bill fell at dissolution before the 2024 general election.

The Labour government has opted to reintroduce some of these provisions into this Crime and Policing Bill, but not all. It has reintroduced provisions to:

- increase the timeframe that a dispersal order or a closure notice could last
- grant housing providers the power to make a closure notice
- increase the value of a fixed penalty notice for breaches of a community protection notice or a public space protection order to £500
- grant local authority officers registered under the Community Safety Accreditation Scheme to issue fixed penalty notices

It has not reintroduced provisions to:

- remove the need for senior police officer authorisation for a dispersal order
- allow for local authorities to impose dispersal orders
- lower the age limit for a community protection notice to 10 years old
- grant senior police officers the power to make public space protection orders

The bill

All the following measures are reintroduced from the Criminal Justice Bill 2023-24.

Dispersal orders

Section 35 of the Anti-social Behaviour, Crime and Policing Act 2014 allows a police officer to disperse individuals or groups causing or likely to cause anti-social behaviour in public places or common areas of private land (such as shopping centres or parks).[33] These dispersal orders enable officers to direct

30 DLUHC and Home Office, Anti-Social Behaviour Action Plan, March 2023

31 See the Library briefings, Criminal Justice Bill 2023-24 and Criminal Justice Bill 2023-24: progress of the bill for more information on these provisions.

32 Criminal Justice Bill 2023-24: progress of the bill

33 Section 35, Anti-social Behaviour, Crime and Policing Act 2014

individuals or groups to leave a specified area and not return for up to 48 hours.[34] A dispersal order must be authorised by an inspector, but once authorised, any police officer can use this power.

Clause 3 of the bill would increase the timeframe a dispersal order can be imposed from 48 to 72 hours. Clause 3(2) would require a police officer of at least the rank of inspector to review any dispersal order set to last more than 48 hours "as soon as reasonably practicable" after 48 hours has passed.

Closure notices

Section 76 of the 2014 act allows police inspectors and local authority officers to issue 'closure notices', which temporarily restrict access to premises associated with anti-social behaviour for up to 24 hours. Under section 77 of the 2014 act, a closure notice can be extended for up to 48 hours by a police officer of rank of superintendent or above, or the local authority's chief executive.[35]

Clause 3(3) would extend these limits so that a closure notice could last up to 48 hours, rising to 72 hours if issued by an officer of rank of superintendent or above, or the local authority's chief executive.

Clause 5 and schedule 2 of the bill would extend the power to issue a 48-hour closure notice to registered social housing providers, regarding their own premises.[36] A member of the registered social housing provider's senior management team could authorise an extension of a closure notice to 72 hours.[37]

Closure orders

Section 80 of the 2014 act allows for the police and local authorities to apply to the courts for a 'closure order', to extend the restrictions imposed on a premises by a closure notice, for up to six months. If a court refuses a closure order application, it can instead extend a closure notice for a further 48 hours under section 81.[38] Clause 3(4) would extend this to 72 hours.

Clause 5 and schedule 2 would extend this power to apply for a closure order to registered social housing providers.[39]

34 For further detail, see section 2 of the Library briefing Rough Sleepers: Enforcement Powers (England)

35 Section 77, Anti-social Behaviour, Crime and Policing Act 2014

36 Schedule 2, paragraph 2

37 Schedule 2, paragraph 3

38 Section 81, Anti-social Behaviour, Crime and Policing Act 2014

39 Schedule 2, paragraph 6

2.3 Increased fixed penalty notices

Clause 4 would increase the maximum fixed penalty notice that could be issued for a breach of a community protection notice or public space protection order from £100 to £500.

Background

The Anti-social Behaviour, Crime and Policing Act 2014 legislated for community protection notices and public space protection orders. In short:

- Community protection notices can require an individual or business to stop certain behaviour or take reasonable steps to remedy a problem (for example, to remove graffiti or rubbish from their property). If they fail to take the necessary remedial action, the local authority can carry out the works and recover the costs incurred. [40]

- Public space protection orders can be imposed by local authorities to prohibit a wide range of activity associated with anti-social behaviour. [41] Examples include orders prohibiting the anti-social use of cars, public drinking or night fishing.[42]

Breach of either a community protection notice or a public space protection order is a criminal offence than can result in a fixed penalty notice, or a larger fine if found guilty at a magistrates' court. The 2014 act sets the upper limit for a fixed penalty notice at £100. [43]

In 2023, the previous government ran a consultation on proposals to strengthen powers available to address anti-social behaviour. This included a proposal to increase the upper limit of fixed penalty notices to £500.[44]

Following the consultation, the government included a proposal in its Criminal Justice Bill 2023-24 to increase the value of fixed penalty notices to £500.[45] The bill fell at dissolution before the 2024 general election.

The Labour government has reintroduced this measure within this bill.

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40 Part 4, chapter 1, Anti-social Behaviour, Crime and Policing Act 2014

41 Part 4, chapter 2, Anti-social Behaviour, Crime and Policing Act 2014

42 See, for example: South Tyneside Council, Anti-social behaviour and fishing, 17 May 2024; Newham Council, Public Spaces Protection Order (PSPO), undated [last accessed 27.02.25]; Safer Bradford, Public Space Protection Order, undated [last accessed 27.02.25]

43 Section 52 and section 68, Anti-social Behaviour, Crime and Policing Act 2014

44 Home Office, Community safety partnerships review and antisocial behaviour powers, 14 November 2023

45 See the Library briefing, Criminal Justice Bill 2023-24, section 8.2.

Stakeholder commentary

Public space protection orders and community protection notices have been criticised by campaigners for the wide range of behaviours they can penalise, such as cycling on pavements, overgrown gardens, amplified music and entering no-dog zones.[46] Some have also criticised the use of private enforcement officers, who they say have monetary incentives to issue a high volume of fines.[47]

Some campaigners have therefore opposed the government's measures, questioning the fairness of applying increased £500 fines for such behaviours, that would otherwise not be deemed criminal.[48]

The bill

Clause 4 would amend sections 52 and 68 of the 2014 act to increase the maximum amount that can be charged under a fixed penalty notice for a breach of a community protection notice or a public space protection order to £500.[49]

Clause 4 would also amend schedule 5 of the Police Reform Act 2002, so that 'Community Safety Accreditation Scheme' officers can also issue fixed penalty notices for breaches of community protection notice or a public space protection order. 'Community Safety Accreditation Scheme' officers are accredited by the chief constable of a police force.[50]

2.4 Anti-social behaviour case reviews

Clause 6 and schedule 3 would enable a local policing body (police and crime commissioners and their equivalents) to conduct reviews into how authorities in their area have handled reports of anti-social behaviour.

Background

Sections 104 and 105 and schedule 4 of the Anti-social Behaviour, Crime and Policing Act 2014 provide for anti-social behaviour case reviews (ASB case reviews, previously known as Community Triggers).

46 See, for example: Netpol, Protesters silenced by Greenwich Council anti-social behaviour powers, 26 February 2025; Manifesto Club, 1500 people fined for breaching 'busybody' orders, 27 January 2025; The Times, It's a dog's life for owners targeted by council penalty notices, 6 December 2024;

47 Manifesto Club, PSPO fines jump 42% in 2023, 6 December 2024; road.cc, "Rogue" wardens accused of "lying in wait" for cyclists riding on pavement beside busy roundabout, 20 May 2024.

48 Manifesto Club, £500 fines for 'idling' and messy gardens, 3 March 2025; Road.cc, Cyclists could face on-the-spot £500 fines for riding in pedestrian zones under new bill, 3 March 2025

49 It would amend sections 52(7) and 68(6), Anti-social Behaviour, Crime and Policing Act 2014.

50 Home Office, Community safety accreditation scheme powers, September 2012

ASB case reviews allow for people who have reported persistent cases of anti-social behaviour to request a review of their cases. [51] For example, a victim could request that their case is re-examined if they were frustrated with the police's response to multiple reports they have made of anti-social behaviour in their area.

Any individual, community or business can make an application for an ASB case review, and the relevant bodies must carry out the review if a certain threshold of complaints is met (this is set locally, but is often three complaints within the previous six months). [52]

Relevant agencies in each area determine procedures for ASB case reviews and publish information on how people can apply.[53] They must also publish data, including on the number of ASB case reviews conducted and their outcomes.[54] The legislation does not specify how this information must be published, and charities have criticised the lack of consistent data available.[55]

The effectiveness of ASB case reviews have been questioned. Criticism has focused on the low awareness among the public of ASB case reviews and local agencies' ineffectual and slow processes for conducting reviews.[56]

In 2023, the previous government ran a consultation on proposals to strengthen powers available to public services to address antisocial behaviour. In its response to the consultation, the government committed to exploring measures to increase the profile and use of ASB case reviews, including:

- creating a duty for police and crime commissioners to promote awareness of ASB case views, and
- creating a duty for police and crime commissioners to provide a route for victims to query the outcome made by the relevant agency following the ASB case review.[57]

The government subsequently brought forward measures in the Criminal Justice Bill 2023-24 to legislate for these changes, but the bill fell at dissolution in 2024.

51 Section 104. Anti-social Behaviour, Crime and Policing Act 2014
52 Home Office, Guidance: anti-social behaviour case review, March 2023
53 Section 104(2). Anti-social Behaviour, Crime and Policing Act 2014
54 Section 104(9). Anti-social Behaviour, Crime and Policing Act 2014
55 ASB Help, The Community Trigger, Where We Are Today, March 2019
56 See, for example: Victims' Commissioner, Still living a nightmare: Understanding the experiences of victims of anti-social behaviour (PDF), September 2024; Resolve, Making Communities Safer (PDF), 2023.
57 Home Office, Community safety partnerships review and antisocial behaviour powers, 14 November 2023

The Labour government has reintroduced these measures through this Crime and Policing Bill.

The bill

Clause 6 and schedule 3 of the bill would create new powers for the local policing body, such as the local police and crime commissioner or deputy mayor, to conduct case reviews (LPB case reviews).[58] Someone could request an LPB case review if they were dissatisfied with the outcome an ASB case review conducted by another agency, such as the local police force.

Clause 6 would add a new section 104A into the Anti-social Behaviour, Crime and Policing Act 2014, outlining LPB case reviews. This specifies the circumstances under which the local policing body can conduct an LPB case review, their responsibility to inform the complainant of the outcome, and its right to make recommendations to the relevant public authority.

The precise procedures for conducting LPB case reviews would be set by the local policing body itself, in line with the above requirements specified in the bill and in consultation with relevant bodies and housing providers. It must publish these procedures.[59]

New clause 104A would require local policing bodies to publish data on LPB case reviews, including the number of applications, the number of reviews conducted and their outcomes.[60] This mirrors existing requirements under section 104(9) of the 2014 act for relevant authorities to publish data on ASB case reviews. However, like under section 104, it does not specify how this data should be published. This may raise concerns for those who have criticised agencies' inconsistent approach to publishing data on ASB case reviews.[61]

Clause 6 would also amend schedule 4 of the 2014 act to require that local policing bodies 'promote awareness' of ASB case reviews in their police areas.

Schedule 3 of the bill would also insert a new schedule 4A into the 2014 act, which provides further requirements related to review procedures and creates a duty for local policing bodies to promote LPB case reviews.

58 The Library briefing, Police and Crime Commissioners (October 2024) provides more information on the roles of local policing bodies.

59 New section 104A(4)

60 New section 104A(10)

61 ASB Help, The ASB Case Review – the victims' voice or a box-ticking exercise? (PDF), January 2024, p.9

2.5 Data on anti-social behaviour

Clause 7 would give the Secretary of State the power to specify in secondary legislation what data on anti-social behaviour local agencies must supply to the government.

Background

In 2023, the previous government's consultation on anti-social behaviour powers identified the lack of data on anti-social behaviour as a significant challenge. It recommended creating a duty for relevant bodies to report, at the end of a reporting period, the number and details of complaints made about anti-social behaviour and the number and outcome of ASB case reviews.[62]

Several other campaign groups and academics have raised concerns over the lack of data on anti-social behaviour in recent years, for example:

- The Centre for Public Data expressed concern over the lack of available data on the use of anti-social behaviour civil injunctions and how responsive authorities are at responding to case reviews.[63]
- Academics from the University of Manchester and University of East Anglia have suggested the "public or civil society scrutiny has also been stymied" by the lack of data collection on the use of powers under the 2014 act.[64]

The bill would require relevant agencies to report to the government on anti-social behaviour incidents, their use of powers in their area and the number and outcome of ASB case reviews.

The bill

Clause 7 would insert new section 105A into the 2014 act, which would allow for the Secretary of State to issue regulations specifying what data on anti-social behaviour must be supplied by local agencies to the government.

This could include information on:

- reports of anti-social behaviour
- responses of authorities to reports of anti-social behaviour

62 Home Office, Community safety partnerships review and antisocial behaviour powers, 14 November 2023

63 The Centre for Public Data, Data gaps on anti-social behaviour in England & Wales (PDF), undated [accessed 27/02/25]

64 Manifesto Club, 1500 people fined for breaching 'busybody' orders, 27 January 2025; Manifesto Club, PSPO fines jump 42% in 2023, 6 December 2024.

- ASB case reviews carried out by the relevant authority

Regulations could set rules on how the data should be provided, and how often. The government has stated that specifying datasets to be reported will enable the government to more easily adapt requirements in the future, for example in response to changes in forms of anti-social behaviour.[65]

2.6 Seizing vehicles

Clause 8 would remove the need for the police to issue a warning before seizing vehicles associated with anti-social behaviour.

Background

In recent years, MPs have raised concerns about anti-social behaviour involving vehicles in local communities, including motorised vehicles being driven dangerously on pavements, in parks and in other public spaces. [66]

Police forces have reported conducting specific operations to address anti-social behaviour associated with the use of off-road vehicles, including 'hotspot' policing, the use of forensic spray to 'tag' riders and vehicles, and deploying drones to aide pursuits.[67]

The government's factsheet accompanying the bill states that:

> ASB involving vehicles is wide ranging and encompasses: (i) off-road bike misuse; (ii) illegal motorbike and car racing; (iii) noisy and dangerous motorbike use; and (iv) aggressive or inconsiderate driving. It is a concern which communities frequently raise with MPs and PCCs. This behaviour takes place in both rural and urban areas, both on roads and off roads.

Under section 59 of the Police Reform Act 2002, a police officer in England and Wales can order a person to stop driving and use force to seize and remove a vehicle, if they have "reasonable grounds for believing" that someone is using a vehicle in a manner which:

1. contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving); and

65 Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), p.8. Secondary legislation introduced under new section 105A would be subject to negative procedure.

66 See, for example: House of Commons Library, Debate pack: Anti-social behaviour and illegal use of off-road bikes, 3 March 2025; Westminster Hall debate: Off-road Biking, 20 February 2024; Westminster Hall debate: Antisocial Behaviour and Off-road Bikes, 11 July 2023

67 See, for example: Staffordshire Police, Home Secretary hears about work to combat off-road bike anti-social behaviour, 26 February 2025; Greater Manchester Police, SmartTag rolled out across Greater Manchester to help identify ASB offenders, 23 July 2024; Cumbria Constabulary, Operation Leopard, 16 October 2024.

2. is causing, or is likely to cause, alarm, distress or annoyance to members of the public[68]

However, under section 59(4), the police must first provide a warning to the individual, unless it is 'impracticable' to do so, or the individual has already received a warning in the last 12 months. If an individual continues to use their vehicle in an anti-social way, a police officer can then seize the vehicle.

The bill

Clause 8 would repeal subsection 59(4) of the Police Reform Act 2002, to remove the need for a warning to be given before the police can seize vehicles associated with anti-social behaviour.

2.7 Fly-tipping

Clause 9 would enable the Secretary of State to issue statutory guidance to English waste collection authorities on tackling fly-tipping.

Background

Many MPs have raised concerns about the prevalence of fly-tipping, including in rural areas.[69] Between April 2022 and March 2023, local authorities in England dealt with 1.08 million fly-tipping incidents, a decrease of 1% from the 1.09 million reported in 2021/22.[70]

Most of these reported incidents were on public land, with the most common location being on highways (pavements and roads). Fly-tipping on private land is often underreported. In general, this is because responsibility for dealing with fly-tipping on private land rests with private landowners and is not subject to mandatory data reporting.[71]

Fly-tipping can be prosecuted under several pieces of legislation. These include:

- Section 33, Environmental Protection Act 1990, which prohibits the deposit of controlled waste (solid and liquid) or extractive waste in or on land except in accordance with an environmental permit.
- Regulations 12 and 38, Environmental Permitting (England and Wales) Regulations 2016. This is in relation to where someone has breached the requirement to have an environmental permit in place.

68 Section 59, Police Reform Act 2002
69 See results for 'fly-tipping' via parliamentary search.
70 DEFRA, Fly-tipping statistics for England, 2022 to 2023, 13 March 2024
71 DEFRA, Fly-tipping statistics for England, 2022 to 2023, 13 March 2024

- Schedule 21, Environmental Permitting (England and Wales) Regulations 2016, which relates to the dumping of waste in waters.

Local authorities have the discretion to choose whether to investigate such incidents on private land but have no obligation to clear fly-tipped waste. If waste is fly-tipped on private land, then the landowner must bear the cost of removing the fly-tipped rubbish.[72]

Through this bill, the government wants to introduce new statutory guidance on tackling fly-tipping. English waste disposal authorities must have regard to the guidance.

Responding to the measure in the bill during a Westminster Hall debate on rural crime on 27 February 2025, Robbie Moore MP (Con) questioned the effectiveness of the measure:

> I welcome the Government's intention to act on fly-tipping through the Crime and Policing Bill. However, it appears that all they are offering is limited statutory guidance for local authorities. I am therefore interested to hear from the Minister about the extent to which the guidance will help local authorities by further increasing the powers available to them. What will the guidance seek to achieve? Will it be accompanied by additional financial support, like that previously made available to local authorities by the previous Conservative Administration, and will it enable further enforcement action?[73]

The government has justified its approach to issuing guidance, suggesting that existing powers to tackle fly-tipping are effective but are inconsistently or insufficiently applied by local authorities. [74] It states that the guidance "will support waste collection authorities in implementing a consistent, proportionate and effective approach to enforcement", while allowing local areas the "flexibility to respond to fly-tipping according to local circumstances". [75]

The bill

Clause 9 would insert a new section 34CZA into the Environmental Protection Act 1990, giving the Secretary of State the power to issue statutory guidance to English waste collection authorities on tackling fly-tipping.

This guidance will support authorities to understand their enforcement powers in relation to fly-tipping, such as:

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72 For further information see: Defra, Fly-tipping: council responsibilities, March 2024; House of Commons Library, Fly-tipping: the illegal dumping of waste, December 2023.

73 WH deb 762, 27 February 2025

74 Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), p.9; UK Government, Crime and Policing Bill: Antisocial behaviour (ASB) factsheet, 25 February 2025

75 Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), p.9; UK Government, Crime and Policing Bill: Antisocial behaviour (ASB) factsheet, 25 February 2025

- Search and seizure of vehicles linked to fly-tipping, under sections 34B and 34C of the Environmental Protection Act 1990.

- Power to issue fixed penalty notices for fly-tipping and breaches of household waste duty, for example under 33ZA and 34ZA of the Environmental Protection Act 1990.

Waste collection authorities (usually a local authority) will be required to have regard to the guidance when taking enforcement activity.

The guidance will not be subject to any approval in Parliament, but it will be laid before Parliament and published.[76]

[76] Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), p.9

3 Knives and offensive weapons

The bill includes some measures aimed at preventing knife crime. In summary:

- Clause 10 would create a new offence of possessing a knife or offensive weapon with intent to use it to cause harm.
- Clause 11 would increase the maximum penalty for manufacturing, selling, hiring, or lending prohibited weapons.
- Clause 12 would give the police greater powers to seize knives from properties.

These measures would largely apply only to England and Wales.

3.1 Background

In the year ending March 2024, there were around 50,500 offences involving a sharp instrument in England and Wales (excluding Greater Manchester). This was 4.4% higher than in 2022/23 and 2.8% lower than in 2019/20.[77]

In the year ending March 2023, there were 244 homicides (the killing of one person by another) using a sharp instrument, including knives and broken bottles. This meant sharp instruments were used in 41% of the 594 homicides that occurred in England and Wales in 2022/23.[78]

In 2023, the Conservative government consulted on a range of legislative proposals to tackle knife crime, including increasing penalties for certain offences, and enhancing police powers to seize knives.[79] It introduced some of these proposals through its Criminal Justice Bill 2023-24, which fell at the dissolution of Parliament before the 2024 general election.[80]

77 House of Commons Library, Knife crime statistics England and Wales, 27 January 2025
78 House of Commons Library, Knife crime statistics England and Wales, 27 January 2025
79 House of Commons Library, Criminal Justice Bill 2023-24, November 2023; Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023
80 See the Library briefing Criminal Justice Bill 2023-24, section 2.3 for more information on provisions in the bill. The Library briefing Knives, offensive weapons and serious violence provides more information on the previous government's work to tackle knife crime.

The Labour government has committed to halve knife crime within a decade, though it has not said how this will be measured. It has announced several policies to help achieve this aim:

- In the 2024 King's Speech, it said it would "create arrangements for local 'young futures prevention partnerships' to bring together services to support at-risk teenagers".[81] In February 2025, it said it was working "to start to shape" how young futures programme would work.[82]

- In September 2024, it announced the launch of the coalition to tackle knife crime, to bring together the police and other services, with charities, young people, victims' families, technology companies, and sports organisations, "to develop an extensive understanding of what causes young people to be dragged into violence".[83]

- In September 2024, it oversaw the implementation of the ban on "zombie-style" knives and machetes (introduced through secondary legislation by the previous government). In November 2024, it also launched a consultation on banning "ninja swords".[84]

- In November 2024, the government published a consultation on legislative proposals to give the police the power to compel online platforms and marketplaces to take down illegal content related to knives and weapons, and to take civil action against senior executives of companies that do not comply.[85]

In addition, the government announced in February 2025 that it would introduce a range of legislation to tackle knife crime.[86] This includes reintroducing measures from the Criminal Justice Bill 2023-24, which have been included in its Crime and Policing Bill (see below).

Further legislation may also be introduced to implement recommendations to restrict online sales of knives made by the rapid review of the online sale of knives, completed in January 2025.[87] Some measures could be introduced as amendments to the bill as it progresses through Parliament.

The government has named its package of legislative reforms on knife crime 'Ronan's law', after Ronan Kanda, who was murdered in 2022 by two 16-year-olds using ninja swords bought online and collected from a post office on the day of the attack.[88]

81 UK Government, The King's speech 2024, July 2024
82 PQ30156, Gender Based Violence: Young Futures Hubs, 19 February 2025
83 Home Office, Government to launch new coalition to tackle knife crime, 9 September 2024
84 Home Office, Prohibiting ninja swords: legal description and defences, 13 November 2024
85 Home Office, Knives and offensive weapons: personal liability measures on senior executives of online platforms or marketplaces, 15 November 2024
86 Home Office, 'Ronan's Law' to see toughest crackdown yet on knife sales online, 19 February 2025
87 Home Office, Independent end-to-end review of online knife sales, 19 February 2025
88 Home Office, 'Ronan's Law' to see toughest crackdown yet on knife sales online, 19 February 2025

3.2 Possession with intent

Clause 10 would create a new offence of possessing a knife or offensive weapon with intent to use it to cause harm.

Background

Currently, there is a range of offences related to the possession of a knife or weapon or using a knife or weapon to threaten someone. These include:

- possessing a bladed article or offensive weapon in a public place[89]
- threatening someone with an offensive weapon or bladed article in a public place[90]

Both offences carry a maximum penalty of four years' imprisonment. These offences are detailed more fully in the Library briefing, Knives, offensive weapons and serious violence.

In its 2023 consultation on knife crime, the previous government suggested an additional offence of possession with intent was required. This would mirror a firearm offence of possessing a firearm with the intent to endanger life.[91]

The government initially suggested an offence of possession with intent was necessary for circumstances where a simple possession offence does not reflect the seriousness of all offending behaviour, for example where someone caught in possession of a knife was on their way to attack someone.

In its consultation, the government had indicated that the new offence would carry a higher maximum sentence than 'simple' possession offences, to reflect the higher seriousness of the crime.[92] However, over time, the rationale for the offence appears to have shifted, from being required to address more serious offending, to filling a legislative gap of people who taunt others with knives on social media.

For example, in response to its consultation, the government said the new offence would help to address a 'gap' in existing legislation where there was of people using knives to taunt or threaten others over social media.[93] When the government introduced a new offence of possession with intent its Criminal Justice Bill 2023-24, the proposed offence would have carried the same maximum penalty of four years' imprisonment as other possession offences. In addition, witnesses providing evidence to the public bill

89 Section 139, Criminal Justice Act 1953; section 1, Prevention of Crime Act 1953.
90 Section 1A, Prevention of Crime Act 1953
91 Section 16, Firearms Act 1968
92 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime: Government response, 30 August 2023, para 94
93 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime: Government response, 30 August 2023, para 95

committee cited its value in tackling taunting over social media, rather than as a more serious offence.[94]

The Criminal Justice Bill fell at dissolution before the 2024 general election. The Labour government has reproduced the measure in its Crime and Policing Bill 2024-25.

The bill

Clause 10 would add a new section 139AB to the Criminal Justice Act 1988, which would introduce a new offence of possessing a "relevant weapon" with intent to use it:

- to perpetrate unlawful violence against another person
- to cause another person to believe that unlawful violence will be used against them or anyone else
- to cause serious unlawful damage to property, or
- to enable another person to do any of the above

"Relevant weapon" would be defined as a bladed or pointed article covered by section 139 of the 1988 act, or an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953.

Clause 10 would also amend section 315 of the Sentencing Act 2020, which provides for mandatory minimum custodial sentences for certain repeat knife crime offenders, to bring the new offence within the scope of the mandatory minimum sentence regime. This is in line with the existing offences on possession of knives and offensive weapons and making threats with them.[95]

3.3 Offensive weapons penalty

Clause 11 would increase the maximum penalty for manufacturing, selling, hiring, or lending prohibited weapons.

Background

Currently, it is unlawful to sell knives to children or to manufacture, sell, hire, lend or otherwise supply a banned weapon.[96] However, in England and Wales, the relevant offences are summary only, meaning they can only be

94 PBC Deb 12 December 2023 c11

95 For more information on mandatory minimum sentences for knife crime offences, see the Library briefing Knives, offensive weapons and serious violence (January 2025), section 3.4

96 'Banned weapons' here means weapons prohibited under section 141, Criminal Justice Act 1988, and flick knives or gravity knives. See the Library briefing, Knives, offensive weapons and serious violence (section 1.3) for more information.

heard in a magistrates' court.[97] They each carry a maximum sentence of six months' imprisonment, a fine or both.

The previous government identified two main challenges with these offences being 'summary only'[98]:

- Firstly, the maximum penalty does not reflect the severity of the offence. The maximum penalty for possession of a banned weapon is four years' imprisonment, whereas supply of a banned weapon is only six months' imprisonment.

- Secondly, prosecutions for most 'summary only' offences must be commenced within six months of the offence having been committed.[99] This creates a time constraint on completing often complex investigations related to the sale of knives online.

As sales of knives are often conducted online via social media or encrypted channels, the police may have additional challenges in identifying those selling knives illegally.[100] The 2023 Home Office consultation gave an example of where the summary only nature of the offence could hinder prosecutions:

> Any investigation of suspicious sales using social media and other online means takes time and cannot usually be done in the 6 months required for an offence triable as 'summary only'. For instance, the police have made us aware of investigations relating to the unlawful sales of knives to persons under 18 conducted via web app groups and instant messaging, where additional time has been needed to request access and retrieve data held on private devices.[101]

The consultation proposed making relevant offences triable either way and increasing sentences, to "provide the police with more time to investigate the alleged offence and to do so when sufficient evidence has been gathered, without the pressure of the current summary offence time limit".[102]

The previous government's Criminal Justice Bill 2023-24 sought to make relevant offences triable either way, with a maximum penalty of two years' imprisonment.[103] The bill fell at dissolution before the 2024 general election.

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97 section 141(1), Criminal Justice Act 1988; section 141A, Criminal Justice Act 1988; section 1, Restriction of Offensive Weapons Act 1959

98 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023

99 Section 127, Magistrates' Courts Act 1980

100 Home Office, Independent end-to-end review of online knife sales, 19 February 2025

101 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023

102 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023, proposal 3

103 See the Library briefing Criminal Justice Bill 2023-24, section 2.3 for more information on provisions in the bill.

The Labour government has reintroduced these measures in its Crime and Policing Bill.

The bill

Clause 11 would amend the following legislation to introduce higher maximum penalties for:

- the offence of manufacturing, selling, or supplying a prohibited offensive weapon under section 141 of the Criminal Justice Act 1988
- the offence of selling knives and certain bladed articles to children under section 141A of the Criminal Justice Act 1988, and
- the offence of manufacturing, selling, or supplying flick knives or gravity knives under section 1 of the Restriction of Offensive Weapons Act 1959

In England and Wales, these offences are currently 'summary only' offences, which means they can only be tried in the magistrates' court.[104] The bill would make these offences 'triable either way' meaning they could be tried in either the magistrates' court or the Crown Court.

The maximum sentence in the magistrates' court would increase to the maximum available (currently 12 months' imprisonment) and/or a fine. The maximum sentence in the Crown Court would be two years' imprisonment and/or a fine.

This affects only England and Wales. Where these offences extend to Scotland and Northern Ireland, their existing penalties will remain the same.[105]

The change would also bring the offences within the scope of section 17 of the Police and Criminal Evidence Act 1984, which empowers the police to enter any premises for the purposes of arresting a person for an indictable offence (this includes 'either way' offences).

3.4 Seizure of bladed articles

Clause 12 would give the police greater powers to seize knives from properties.

[104] In Northern Ireland, a section 141 offence is already triable either way, with a maximum penalty of four years' imprisonment.

[105] Section 141 of the 1988 act applies to the UK; section 141A of the 1988 act applies to England, Wales and Scotland; and section 1 of the 1959 act applies to England, Wales and Scotland.

Background

In its 2023 consultation on knife crime, the Home Office consulted on whether the police required additional powers to seize, retain and destroy lawfully held bladed articles if they are:

- found by the police when in private property lawfully, and
- the police have reasonable grounds to believe that the articles are likely to be used in a criminal act.[106]

The consultation noted that the police already have powers to seize knives or weapons from people in certain circumstances.[107] However, it also noted that the police currently have no power to seize knives or bladed articles that they find while they are already lawfully on private premises (for example if they are executing a search warrant), unless the articles are required as evidence.

It gave an illustrative example:

> the police, in the course of a drug dealing investigation, may come across several machetes hidden under a bed, but they may not necessarily be linked to the specific offence being investigated. There may be circumstances surrounding the particular individual which lead the police to conclude that there are reasonable grounds to believe that the machetes are likely to be used in crime; for example, the individual may have a history of violence and previous convictions for knife crime related offences. At the moment, however, unless the bladed articles are prohibited, or are needed as evidence, the police cannot forfeit those items. They have to wait until the person is found with a machete in a public place before they can take any action.[108]

58% of respondents disagreed with the consultation's proposal to give police powers to seize knives when lawfully on a premises. Respondents cited concerns that the power could be applied arbitrarily or incorrectly by the police. [109] Respondents who supported the measure suggested it could help to prevent violence or crime and could be useful in situations of domestic abuse where there are significant risks but currently no powers to seize weapons. [110]

The Conservative government introduced legislation as part of the Criminal Justice Bill 2023-24, that would allow for the police to seize knives when

106 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023

107 For example, where a person is carrying a knife in public or on education premises without good reason (contrary to sections 139 and 139A, Criminal Justice Act 1988); and where a person possesses in private a knife or offensive weapon prohibited under section 141(1A), Criminal Justice Act 1988.

108 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023, proposal 2

109 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023, paras 53-54

110 Home Office, Consultation on new knife legislation proposals to tackle the use of machetes and other bladed articles in crime, April 2023, paras 55-56

lawfully on a premises. [111] The bill fell at dissolution before the 2024 general election.

The Labour government has reintroduced the measure within its Crime and Policing Bill.

The bill

Clause 12 would introduce a new police power to seize bladed articles that could be exercised by a police constable in the following circumstances:

- the constable is lawfully on any premises
- the constable finds (on those premises) a bladed or sharply pointed article (a "relevant article), and
- the constable has reasonable grounds to suspect that the relevant article would be likely to be used in connection with unlawful violence (including unlawful damage to property and threats of unlawful violence or damage to property) if it were not seized.

This would apply to England and Wales only.

A constable who seized a relevant article would be required to provide a record of what had been seized, including a description of the article and the reason why it had been seized.[112]

A person claiming to be the owner of a seized article would be able to apply to the magistrates' court to recover the article.[113] The court would be able to order the return of the article if it appears that it would be "just" to do so.[114] Otherwise, the police would be entitled to destroy or otherwise dispose of the item.[115]

Clause 13 would create similar powers for armed forces service police. Unlike clause 12, the power for the armed forces service police would apply across the UK.

111 See the Library briefing Criminal Justice Bill 2023-24, section 3.2 for more information.
112 Clause 12(3)
113 Clause 12(6)
114 Clause 12(7)
115 Clause 12(5)

4 Retail crime

The bill includes provisions aimed at addressing shoplifting and assaults on shop workers. In summary:

- Clauses 14 and 15 would introduce a new offence of assaulting a retail worker.
- Clause 16 would mean all shop thefts (involving an alleged offence under section 1 of the Theft Act 1968) would be triable either way, regardless of the value of the goods stolen.

4.1 Assault of a retail worker

Background

Prevalence

The Home Office's 2023 Commercial Victimisation Survey found that 12% of retail premises in England and Wales had experienced assaults or threats against employees or customers in the previous 12 months.[116] Premises that had experienced at least one incident of robbery or assault/threat said the most common reasons for violence affecting staff were:

- encountering someone committing a store theft (19%)
- a customer complaint (17%)
- confronting suspicious behaviour (14%)[117]

In its 2025 Crime Survey, the British Retail Consortium highlighted rising levels of violence and abuse:

> The survey reveals incidents of violence and abuse in 2023/24 climbed to over 2,000 per day, up from 1,300 the year before. This is more than three times what it was in 2020, when there were just 455 incidents a day. Incidents included racial or sexual abuse, physical assault or threats with weapons.

116 Home Office, Crime against businesses: findings from the 2023 Commercial Victimisation Survey, May 2024, section 4.2

117 As above, section 9.1

There were 70 incidents per day which involved a weapon, more than double the previous year.[118]

The existing criminal law

Several existing criminal offences can be used to prosecute violence and abuse against retail workers, including:

- assault, unlawful wounding or grievous bodily harm under the common law or the Offences Against the Person Act 1861
- harassment or putting people in fear of violence under the Protection from Harassment Act 1997
- affray or threatening or abusive behaviour under the Public Order Act 1986
- robbery under the Theft Act 1968

Under section 68A of the Sentencing Act 2020, when sentencing an offender convicted a specified offence against the person,[119] the court must treat it as an aggravating factor if the offence was committed against a person providing a public service, performing a public duty or providing services to the public.[120] The National Business Crime Centre has published guidance on how the sentencing provision operates, and how it fits within the wider approach to protecting retail staff from violence and abuse.[121]

Calls for a specific offence

In July 2020, the Union of Shop, Distributive and Allied Workers (Usdaw) launched a petition calling for a specific offence of abusing, threatening or assaulting a retail worker.[122] The petition was signed by 104,354 people. The government's response stated that it was "not persuaded that a specific offence is needed as a wide range of offences already exist which cover assaults against any worker, including shop workers".[123]

In June 2021, following an inquiry into violence and abuse towards retail workers, the Home Affairs Committee concluded that there was "a strong case for extra protection in law for retail workers through a specific

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118 British Retail Consortium, 2025 Crime Survey: Retail crime "spiralling out of control", 30 January 2025

119 Common assault or battery, or any of the following offences under the Offences Against the Person Act 1861: threats to kill (section 16), wounding with intent to cause grievous bodily harm (section 18), malicious wounding (section 20) or assault occasioning actual bodily harm (section 47)

120 Section 68A was introduced by section 156 of the Police, Crime, Sentencing and Courts Act 2022 following debates about protections for retail workers during that act's passage through Parliament. See section 4.20 of the Library briefing Police, Crime, Sentencing and Courts Bill: Progress of the Bill for full background

121 National Business Crime Centre, Assaults on those providing a public service (PDF), 2022

122 Petitions website, Protect Retail Workers from Abuse, Threats and Violence [accessed 4 March 2025]

123 As above

offence".[124] It recommended that the government should consult urgently on the scope of a new offence, "recognising the particular pressure on those in different occupations who are asked to enforce the law".[125]

In 2024, the Association of Convenience Stores called on the new Labour government to introduce a new standalone offence for attacks on shopworkers, alongside resources for police forces to respond to violent and prolific offenders who target local shops and more funding for trading standards.[126]

In its 2025 'manifesto for retail', the British Retail Consortium called on the government to legislate for a specific offence "as quickly as possible" and to include "all customer-facing retail workers".[127]

Government action

The Conservative government initially resisted calls for legislative change as it considered the existing criminal law provided adequate protection.[128]

It instead focused on non-legislative measures such as the Retail Crime Action Plan, which was commissioned by the government and published by the National Police Chiefs' Council in October 2023.[129] The plan focused on the operational policing response to retail crime within the existing legal framework.

However, there was continued pressure on the government to legislate, including from Labour. Successive shadow policing ministers had unsuccessfully attempted to amend the Policing and Crime Bill 2022-23 and then the Criminal Justice Bill 2023-24 to introduce a specific offence of assaulting a retail worker.[130]

In April 2024, the Conservative government announced further measures to tackle retail crime, including its own plans to introduce a standalone criminal offence of assaulting a retail worker through government amendments at report stage of the Criminal Justice Bill.[131]

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124 Home Affairs Committee, Violence and abuse towards retail workers, HC 141, 29 June 2021, para 152

125 As above

126 Association of Convenience Stores, What do local shops need from the new government? (PDF), 2024

127 British Retail Consortium, Manifesto for Retail (PDF), 2025, p13

128 See for example the government response to the Usdaw petition referred to above

129 National Police Chiefs' Council, Partnership to crack down on shoplifting, 23 October 2023

130 See page 52 of the Library briefing Police, Crime, Sentencing and Courts Bill: Progress of the Bill and pages 34 to 37 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill for background

131 Home Office, Fighting retail crime: more action, 10 April 2024. See also pages 34 to 37 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill.

However, the bill fell when Parliament was dissolved ahead of the 2024 general election before the amendments had been debated or added to the bill.

Having supported calls for a specific offence in opposition, on taking office the Labour government used the 2024 King's Speech to confirm that a specific offence would be included in a Crime and Policing Bill.[132]

The bill

Clauses 14 and 15 would introduce a new offence of assaulting a retail worker and would (in certain circumstances) require the courts to impose a criminal behaviour order (see box 1, page 22) on anyone aged over 18 convicted of the new offence. They would apply to England and Wales.[133]

The clauses largely replicate two of the new clauses tabled by the Conservative government for report stage of the Criminal Justice Bill.[134]

However, the Conservative government had also proposed to make it mandatory for the courts to impose at least one of a curfew requirement, an exclusion requirement or an electronic monitoring requirement on repeat offenders convicted of shoplifting or the new assaulting a retail worker and sentenced to a community order or a suspended sentence.[135] This bill does not include any provisions to this effect.

A new offence of assaulting a retail worker

Clause 14 would introduce a new specific offence of assaulting a "retail worker at work", which would be defined as a person who:

- is working (on a paid or unpaid basis) on or about retail premises, and
- is working there for or on behalf of the owner or occupier of those premises, or is themselves the owner or occupier of those premises.

The definition of retail premises would also extend to premises used mainly for the purposes of wholesale, if those premises are also used for the sale of anything by retail, and would include stalls or vehicles.

The inclusion of unpaid workers is intended to cover people such as volunteers in charity shops or those who work in a family business without pay.[136]

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132 HM Government, King's Speech 2024: background briefing notes, p56

133 There is already a specific offence in Scotland under the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021, and the Northern Ireland Executive is considering its own legislation on the issue (see for example "NI Justice Minister to 'consider assault on retail workers a specific stand-alone offence'", Convenience Store, 28 October 2024)

134 Criminal Justice Bill, As Amended, Gov NC107 and Gov NC110 (PDF), 24 May 2024

135 As above, Gov NC108 and Gov NC109

136 Explanatory Notes (PDF), para 304

The new offence would be summary only, meaning it could only be tried in the magistrates' court, and the maximum sentence would be six months' imprisonment and/or an unlimited fine. This is the same maximum penalty as the existing offence of common assault.

Duty to make a criminal behaviour order

Clause 15 would add a new section 331A to the Sentencing Act 2020, which would place a duty on the court to impose a criminal behaviour order (CBO) on a person convicted of the new offence.

New section 331A would apply in cases meeting the following conditions:

- a person has been convicted of the new offence of assaulting a retail worker
- the prosecution has applied to the court for a CBO to made against the offender
- the offender is aged 18 or over at the time the prosecution makes the application
- the court does not also impose a custodial sentence or a youth rehabilitation order, community order or suspended sentence order

The application of section 331 of the 2020 would be modified for cases where the above conditions were met, to provide that the court "must" (rather than "may") make a CBO against the offender. This duty would not apply if:

- the court was of the opinion that there were exceptional circumstances relating to the offence or the offender that justified not making a CBO, or
- the court made an order for an absolute discharge.

The government says CBOs could be used to "bar offenders from visiting affected shops or premises".[137]

Stakeholder response

Stakeholders in the retail industry have broadly welcomed the proposal for a specific offence for assaulting a retail worker.

Reacting to the 2024 King's Speech, the Co-op's Director of Campaigns and Public Affairs, Paul Gerrard, said the announcement of a specific offence marked a "seismic shift in the crackdown on retail crime" that would "send a

[137] Home Office/Ministry of Justice, Crime and Policing Bill: Retail crime factsheet, 25 February 2025

clear and powerful message" to those who think it is acceptable to assault shopworkers.[138]

The British Retail Consortium said that a standalone offence would "improve the visibility of the issue so that the police can allocate resources more effectively" and would "act as a deterrent to would-be offenders". However, it said it would be making representations to government to extend the proposed offence to delivery drivers as "they face the same risks as their colleagues in stores". It noted that delivery drivers in Scotland have "better protection there than they will in England and Wales" as the Scottish legislation includes them in its definition of "retail worker".[139]

However, policing representatives have questioned whether a specific offence would have any operational impact. When the issue of retail crime was discussed during committee stage of the Criminal Justice Bill 2023-24, the chair of the National Police Chiefs' Council, Chief Constable Gavin Stephens, doubted that a specific offence would make a difference:

> It would not make a difference in terms of the investigation and operational response, because clearly that is something that police would act on anyway. On whether you would want additional emphasis—whether it would be the will of Parliament to have additional emphasis—when it comes to sentencing, that is a separate matter. But it would not make a difference to the initial policing response to investigate the assault.[140]

HM Chief Inspector of Constabulary, Andy Cooke, stated he would "not necessarily be in favour of a separate offence" without evidence that it would enhance enforcement and reduce offending, and that the main focus should be on "how well, or not, policing is dealing with assaults, full stop".[141]

4.2 Low-value shoplifting

Background

The offence of "low-value shoplifting"

There is no specific offence of shoplifting. Instead, it would normally be prosecuted using the offence of theft under section 1 of the Theft Act 1968.

138 Co-op, King's Speech marks 'crowning moment' for all store workers and communities as crackdown on retail crime and new specific offence for attacks and assaults on shopworkers is announced, 17 July 2024

139 British Retail Consortium, New Crime and Policing Bill, 3 March 2025

140 PBC Deb 12 December 2023 c10

141 PBC Deb 12 December 2023 c47

Section 1 is normally an 'either way' offence meaning it can be tried in either the magistrates' court or the Crown Court, depending on seriousness. The maximum sentence in the Crown Court is seven years' imprisonment.[142]

However, section 22A of the Magistrates' Courts Act 1980 provides that a theft offence amounting to "low-value shoplifting" is to be treated as a summary offence that can only be tried in the magistrates' court.[143] Section 22A sets out the following definition of "low-value shoplifting":

> "Low-value shoplifting" means an offence under section 1 of the Theft Act 1968 in circumstances where—
>
> (a) the value of the stolen goods does not exceed £200,
>
> (b) the goods were being offered for sale in a shop or any other premises, stall, vehicle or place from which there is carried on a trade or business, and
>
> (c) at the time of the offence, the person accused of low-value shoplifting was, or was purporting to be, a customer or potential customer of the person offering the goods for sale.

The maximum sentence that can imposed under section 22A is six months' imprisonment.

The rationale for section 22A

Section 22A of the 1980 act was introduced by section 176 of the Anti-social Behaviour, Crime and Policing Act 2014, which took effect in May 2014.

Speaking during the second reading debate on the bill that became the 2014 act, the then Home Secretary Theresa May said the new "low-level" threshold was intended to "free up resources":

> One way in which we can free up resources is by increasing the number of police-led prosecutions. Having to pass low-level offences to the Crown Prosecution Service wastes police time. The police already deal with more than 500,000 cases a year in which people plead guilty. Under the provisions in this part, up to a further 50,000 prosecutions for low-level shoplifting offences will be able to be handled by the police, empowering front-line officers and bringing swifter justice for retailers.[144]

However, Priti Patel (Conservative, not then a government minister) said "owners of small shops in particular will be concerned about what they will see as a downgrading in the treatment of thefts of a value of below £200", and that the proposal could "detract from the serious nature of the offence".[145] She asked the government to "look again" at the issue.[146]

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142 Theft Act 1968, section 7

143 There is an exception for defendants who elect trial by jury – such cases can still be tried in the Crown court (subsection 22A(2))

144 HC Deb 10 June 2013 c75

145 PBC Deb 10 June 2013 c97

146 As above

In a factsheet published for the Lords stages of the bill, the Home Office and Ministry of Justice said the change was "not designed to reduce the number of prosecutions for shop theft or to reduce the penalty imposed".[147] Instead, it was based on factors including efficiency and proportionality and a desire to give the police rather than the Crown Prosecution Service the lead role in tackling the issue, meaning "the CPS can focus their resources on more serious and contested cases, where their independence and specialist skills add most value".[148]

The impact of section 22A

In its April 2024 policy paper Fighting retail crime: more action, the Conservative government emphasised that the £200 limit had not "constrained" the ability of the police to arrest or prosecute suspects:

> It does not constrain the ability of the police to arrest or prosecute someone in the way they feel is most appropriate. There has been a misconception that this meant low-value shoplifting had essentially been decriminalised: this has never been the case. The recent NPCC [National Police Chiefs' Council] commitments on pursuing all reasonable lines of enquiry and prioritising attendance at retail crime will further ensure this route enables cases to be handled more speedily, ensuring swift justice for victims.[149]

The National Police Chiefs' Council (NPCC) commitments referred to above are set out in the NPCC's Retail Crime Action Plan, which says that police attendance at the scene for retail crime should be prioritised in the following circumstances:

> 1. where violence has been used;
>
> 2. where a suspect has been detained (e.g. by store security staff), with prolific or juvenile offenders being given "elevated" priority; and
>
> 3. where evidence (e.g. forensic evidence) needs to be secured quickly and this can only be done in person by police personnel.[150]

No reference is made to prioritisation on the basis of the value of the goods.

However, there remains concern that section 22A has contributed to a perception that shoplifting has been effectively 'decriminalised'. In a research report commissioned by the Co-op, Professor Emmeline Taylor (Professor of Criminology at City St George's, University of London) said the £200 threshold had "sent the wrong message" and was "often cited by prolific offenders":

> There are, unfortunately, a cohort of offenders who are stealing from stores simply because they can. They are aware that, due to a well-publicised lack of police resources, changes in legislation and the severe under-reporting of theft

147 Home Office/Ministry of Justice, Anti-social Behaviour, Crime and Policing Bill Fact sheet: Low-value shop theft (PDF), October 2013
148 As above
149 Home Office, Fighting retail crime: more action, April 2024
150 NPCC, Retail Crime Action Plan, October 2023

> from shops, any meaningful consequence for theft is not only unlikely, but the penalties are minimal even if they were to be prosecuted.
>
> The Anti-social Behaviour, Crime and Policing Act 2014 changed 'low value shoplifting' (where the value of the value of the stolen goods does not exceed £200) to be a summary offence (a criminal offence that is only triable (summarily) in the magistrates' court). As a result, many offenders now believe that they can steal with relative impunity so long as they stay below the £200 threshold. Although police forces state that they do not operate with a minimum threshold, Section 176 of the Act clearly sent the wrong message and is often cited by prolific offenders.[151]

Following a short inquiry into shop theft, the House of Lords Justice and Home Affairs Committee said it had received evidence (including from Professor Taylor) that the £200 threshold was "simply not working in the way that it was intended to and is in effect acting as a barometer for whether the police take action".[152] It said the threshold should be repealed "as soon as possible".

The British Retail Consortium has noted that a perception among retailers that "some police forces do not regard shop theft as a 'real' crime, particularly if it is under £200 in value" is "important given the average theft was £106".[153] It said it would "fully support" the removal of what it described as an "artificial barrier".[154]

Some Police and Crime Commissioners (PCCs) have tried to challenge this perception by making clear that their forces continue to investigate reports of low-level shoplifting. For example, Surrey's PCC Lisa Townsend said it was "categorically untrue" that police would fail to respond to shop thefts valued at under £200, and described such offending as "a top priority for officers in Surrey".[155] Hertfordshire's PCC Jonathan Ash-Edwards and Northumbria's PCC Susan Dungworth have both described the perception as "a myth".[156]

The government's proposals for change

The 2024 Labour manifesto included a commitment to "scrap the effective immunity for some shoplifting introduced by the Conservatives".[157]

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151 Professor Emmeline Taylor/Co-op/Aptus, Stealing with Impunity (PDF), February 2024, p14

152 Justice and Home Affairs Committee, Letter from the Rt Hon Lord Foster of Bath PC to the Rt Hon Dame Diana Johnson MP regarding the outcome of the Committee's short inquiry into shop theft, 4 November 2024, p10

153 British Retail Consortium, Crime Survey Report 2025 (PDF), January 2025 p12

154 As above, p13

155 "PCC says £200 shoplifting minimum for police investigation 'categorically untrue'", Police Professional, 14 August 2024

156 Police and Crime Commissioner for Hertfordshire, Myth of £200 shoplifting limit busted during PCC's accountability meeting, 21 August 2024 and Northumbria Police and Crime Commissioner, PCC Susan Dungworth busts myth that police won't prosecute shoplifting of goods under £200, 14 October 2024

157 Labour Party, Change: Labour Party Manifesto 2024 (PDF), p65

This has been welcomed by bodies including the House of Lords Justice and Home Affairs Committee, the British Retail Consortium and Usdaw.[158]

In response to a parliamentary question in January 2025, the Policing Minister Diana Johnson said that the aim of repealing the £200 limit was to "remove any perception that offenders will escape punishment".[159]

The bill

Clause 16 would repeal section 22A of the Magistrates' Courts Act 1980. The repeal would not be given retrospective effect, so it would not apply to offences committed before the date on which clause 16 comes into force.

The effect of the repeal would be that all shop thefts involving an alleged offence under section 1 of the Theft Act 1968 would be dealt with as a 'general' theft offence that would be triable either way, regardless of the value of the goods stolen.

The defendant would be entitled to elect to be tried in the Crown Court. If the defendant did not make such an election, following the repeal of section 22A it would be for the magistrates' court to decide whether the case should be 'allocated' to the magistrates' court or the Crown Court for trial and/or sentencing.

In general, either way offences should be tried in the magistrates' court unless the likely outcome of the case is a sentence that exceeds the sentencing powers of the magistrates' court, or the case involves unusual legal, procedural or factual complexity. In these circumstances, the case should be allocated to the Crown Court instead.[160]

158 Justice and Home Affairs Committee, Letter from the Rt Hon Lord Foster of Bath PC to the Rt Hon Dame Diana Johnson MP regarding the outcome of the Committee's short inquiry into shop theft, 4 November 2024, p10; British Retail Consortium, New Crime and Policing Bill, 3 March 2025; and Usdaw, Crime and Policing Bill will help to deliver on the Government's commitment to tackle an epidemic of retail crime, says Usdaw, 25 February 2025

159 PQ 23972 [on Retail Trade: Crime], answered 22 January 2025

160 Sentencing Council, Allocation, 1 March 2016

5 Child exploitation and cuckooing

The bill would introduce measures to tackle criminal exploitation of children and others. In summary:

- Clause 17 would create an offence of child criminal exploitation.
- Clauses 18 to 31 and schedule 4 would establish child criminal exploitation prevention orders, which could be imposed by a court with prohibitions and positive requirements aimed at stopping an adult criminally exploiting children.
- Clauses 32 and 33 and schedule 5 would provide for a new offence of cuckooing.

These measures would apply only to England and Wales.

5.1 Child criminal exploitation

- Clause 17 would create an offence of child criminal exploitation.
- Clauses 18 to 31 and schedule 4 would establish child criminal exploitation prevention orders, which could be imposed by a court with prohibitions and positive requirements aimed at stopping an adult criminally exploiting children.

Background

The Labour party committed in its 2024 general election manifesto to introduce a "new offence of criminal exploitation of children, to go after the gangs who are luring young people into violence and crime".[161] It recommitted in the King's Speech in July 2024 to "strengthening the law to tackle those who exploit children for criminal purposes".[162]

Criminal exploitation of children is generally understood as a form of abuse where a child is exploited into taking part in criminal activity, often by organised crime groups.

[161] The Labour Party, 2024 general election manifesto ['cracking down on antisocial behaviour']
[162] UK Government, The King's speech 2024, July 2024, p.57

It is often associated with 'county lines' drug dealing, where children are coerced into transporting drugs across the country.[163] According to the Home Office, a common feature of county lines operations "is the exploitation of children, young people and vulnerable adults who are instructed to deliver and/or store drugs, and associated money or weapons, to dealers or drug users, locally or in other counties".[164]

However, child criminal exploitation is not limited to county lines and could involve a wide range of other circumstances where an adult coerces a child into criminal activity for the benefit of the adult.[165]

Child criminal exploitation is not provided for in legislation, nor is it a specific criminal offence. There are no official statistics on the prevalence of child criminal exploitation.

Depending on the circumstances, someone who exploits children into criminal activity, could be committing:

- offences of intentionally encouraging or assisting crime under sections 44 to 46 of the Serious Crime Act 2007
- offences under the Modern Slavery Act 2015[166]

However, the government states that "existing legislation does not address child criminal exploitation (i.e. using children, intending that they commit criminality) as a specific form of offending".[167]

This mirrors the view of the Jay Review of criminally exploited children, chaired by Professor Alexis Jay, on behalf of Action for Children, published in March 2024. This found that:

- the absence of a clear and consistent definition of the criminal exploitation of children presents a barrier to protecting children
- existing legislation is not fit for purpose
- too many exploited children are treated as criminals rather than victims
- there is no consistent strategy, leadership and focus from central government on tackling criminal exploitation as an urgent and preventable crisis.

163 See: Library briefing, Misuse of drugs: regulation and enforcement (December 2024), section 2.3 for more information on county lines.

164 Home Office, Criminal exploitation of children and vulnerable adults: county lines, 20 October 2023

165 Explanatory notes Crime and Policing Bill (PDF), paras 41-42

166 CPS, Guidance: county lines offending, February 2022

167 Home office, Crime and Policing Bill: Child criminal exploitation and 'cuckooing' factsheet, 25 February 2025

In the bill, the government introduces a new criminal offence of child criminal exploitation and creates new civil orders that can be imposed on adults engaged in child criminal exploitation.

The measures have been welcomed by both the current Children's Commissioner Rachel De Souza, and the former Children's Commissioner Anne Longfield, as well as children's charities such as The Children's Society, Barnardo's.[168]

Both Catch22 and Action for Children also welcomed the measures but called for the government to also introduce a national strategy on child criminal exploitation.[169]

The bill: Child criminal exploitation offence

Clause 17 would create an offence of child criminal exploitation.

Under the provision, any adult over the age of 18 would commit an offence should they do anything to a child with the intention to cause the child to engage in any criminal activity.

An offence will be committed where the adult reasonably believes that the child is under 18. An offence is automatically committed where the child is under 13. An offence under this provision does not require the child to actually commit any offence, only that the adult intended them to.

The government's explanatory notes state that:

> The offence is aimed at adults who exploit children by intentionally using them to commit criminal activity. This could be, but is not limited to, where A [an adult] recruits B [a child] into a criminal gang, or where A directs or controls B's offending. It could also cover the situation where A arranges or facilitates B's criminal behaviour, including where A instructs another person (C) to use B to commit criminal activity. It also covers precursory acts, such as grooming, where there is the requisite intent. A will commit the offence regardless of any apparent consent given by B to the conduct done to or in respect of them, or to engage in the criminal activity.[170]

Clause 17(3) specifies that the offence would be triable either way, meaning it could tried in either a magistrates' or the Crown Court. A maximum penalty on summary conviction would be the limit in a magistrates' court. The maximum penalty on indictment in the Crown Court would be 10 years' imprisonment.

168 Barnardo's, Barnardo's Chief Executive Lynn Perry reacts to Government's announcement on CCE and Cuckooing, 24 February 2025; Home Office, Child criminal exploitation and cuckooing to be criminal offences, 22 February 2025; Children's Commissioner, Statement from the Children's Commissioner on making Child Criminal Exploitation a criminal offence, 22 February 2025.

169 Catch22, Legislation to criminalise child criminal exploitation welcome – but must go further, 24 February 2025; Action for Children, post on X (formerly twitter), 25 February 2025.

170 Explanatory notes Crime and Policing Bill (PDF), para 318

Clause 31 would allow for the Secretary of State to issue statutory guidance about the exercise of their functions in relation to the child criminal exploitation offence, and for child criminal exploitation prevention orders (see below). Police forces would be required to have regard to the guidance.

The bill: Child criminal exploitation prevention orders

Clauses 18 to 31 and schedule 4 would establish child criminal exploitation prevention orders (CCE prevention orders), which could be imposed by a court with prohibitions and positive requirements aimed to stop an adult criminally exploiting children.

An order could be applied in any of the following circumstances:

- where a chief officer of a police force or the director general of the National Crime Agency have applied for an order to be imposed (clause 20 specifies who can apply)
- where a court decides to impose an order on conviction of a child criminal exploitation offence (under clause 17 of this bill)
- where a court decides to impose an order at the end of criminal proceedings, where the defendant has been acquitted of the offence or the court has made a finding that the defendant is not guilty by reason of insanity, or is under a disability (such that they are unfit to be tried) but has done the act charged
- where a court makes an order where it allows a defendant to appeal against their conviction

To impose an order, the court must be:

- satisfied on the balance of probabilities[171], that the individual has engaged in conduct associated with causing children to engage in criminal behaviour
- considers there is a risk that the defendant will seek to cause further children to engage in criminal behaviour, and
- considers an order necessary to protect children

All three conditions must be met for an order to be applied.

Clause 19 provides information on what can be included within a CCE prevention order. It specifies that the court can only specify prohibitions or positive requirements necessary to protect children from criminal exploitation. Clause 19(3) specifies that the conditions must not conflict with the individual's religious, work or education commitments. Clause 19(5) states

[171] The civil standard of proof, 'on the balance of probabilities' is specified in the explanatory notes to the bill (PDF, para 325), but is not specified on the face of the bill itself.

that an order must last for at least two years, and can be made for an indefinite length.

Under clause 27, it would be an offence to breach the terms of a CCE prevention order without reasonable excuse. A court must be satisfied beyond reasonable doubt that the individual has breached an order. The offence would be triable either way. The maximum penalty on summary conviction would be the maximum prison sentence available at a magistrates' court, a fine or both. The maximum penalty on indictment in the Crown Court would be five years' imprisonment, a fine, or both.

Other clauses in this chapter specify:

- processes for interim CCE prevention orders, to be made in expectational cases where there is an immediate risk to a child or where a delay could increase the risk of absconding or harm to victims or witnesses (clauses 21 to 22)
- processes for variation and discharge of CCE prevention orders, and appeals (clauses 25 to 26)
- requirements for CCE prevention orders made on conviction of a child criminal exploitation offence (clause 30 and schedule 4)
- power for the Secretary of State to issue statutory guidance about the exercise of their functions in relation to child criminal exploitation and CCE prevention orders (clause 31)

5.2 Cuckooing

Clauses 32 and 33 and schedule 5 would provide for a new offence of 'cuckooing'.

Background

Cuckooing is where drug dealers will take over a local property, normally belonging to a vulnerable person, and use it to operate their criminal activity from. It is often associated with county lines drug supply, where illegal drugs are transported from one area to another, often by children or vulnerable people who are coerced into it by organised criminal groups.[172]

Cuckooing is not a specific criminal offence and is not defined in legislation. Depending on the specific circumstances of each case, someone responsible for 'cuckooing' could be committing a range of other offences, such as:

[172] See: Library briefing, Misuse of drugs: regulation and enforcement (December 2024), section 2.3 for more information on county lines.

- theft or the handling stolen goods, under the Theft Act 1968
- possession of controlled drugs, or with intent to supply, under the Misuse of Drugs Act 1971
- inchoate offences, under sections 44-46 of the Serious Crime Act 2007
- holding someone in servitude or subjecting them to forced or compulsory labour, under section 1 of the Modern Slavery Act 2015[173]

The previous government explored making cuckooing a specific offence. Its Anti-Social Behaviour Action Plan (March 2023) committed to "engage with stakeholders on making it [cuckooing] a new criminal offence."

However, it determined that existing offences were sufficient to respond to people engaged in cuckooing. On 13 October 2023, the then Policing Minister stated that the results of the engagement exercise had:

> revealed there are a range of powers and tools available to disrupt cuckooing activity and Home Office officials continue to work closely with police and wider partners to both raise awareness of cuckooing and share effective practice to tackle this abhorrent practice.[174]

The then Justice Secretary said, "there is very likely to be a substantive underlying offence [in the act of cuckooing], be it handling stolen goods, possession with intent to supply or firearms matters".[175]

During the passage of the Criminal Justice Bill 2023-24, MPs lobbied to add a specific offence of 'cuckooing' into the bill.[176] At committee stage, the Official Opposition tabled a new clause to establish an offence.[177] Chris Philp MP stated that the clause, as drafted, did not require coercion for an offence to be committed, and therefore did not meet the definition of cuckooing that is normally recognised. He said:

> The way the new clause has been drafted means that, even where there is no coercion or duress and even where consent has been freely given by the person living in the residential building, the offence would none the less have been committed. That is not exactly the definition of cuckooing that we would ordinarily recognise, which would involve duress and/or coercion of a typically vulnerable person. For that drafting reason, we could not support the new clause.[178]

Following discussion, the clause was withdrawn. The opposition requested that the minister work with MPs to bring forward an alternatively worded clause that would create a specific criminal offence of cuckooing.[179] Sir Iain

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173 CPS, Guidance: county lines offending, February 2022
174 PQ201681, Drugs: Organised Crime, 19 October 2023
175 HC Deb 9 January 2024 c154
176 HC Deb 28 November 2023 cc768 and 783; PBC Deb 30 January 2024 c503
177 PBC Deb 30 January 2024 c503
178 PBC Deb 30 January 2024, c504
179 PBC Deb 30 January 2024, c506

Duncan Smith MP (Con) tabled a new clause for report stage that would make cuckooing a criminal offence.[180] The amendment was not debated before the bill fell at dissolution before the 2024 general election.

The Labour government has included a specific offence of cuckooing within this bill. It states that "the existing legal framework does not reflect the harm caused to victims when their home, a place where they should feel safe, is taken over by criminals".[181] It further explains that:

> Engagement by the Home Office with a variety of stakeholders on the merits and scope of a new offence has helped inform the development of these provisions, which will criminalise the control, however obtained, over another person's dwelling without their consent for the purposes of enabling it to be used in connection with specified criminal activity.[182]

The bill

Clauses 32 and 33 and schedule 5 would provide for a new offence of cuckooing. This would apply to the UK.

Clause 32(1) sets out that someone commits a criminal offence of cuckooing if:

- they exercise control over the dwelling of another person
- they do so for the purpose of enabling that dwelling to be used in connection with specific offences, and
- the person whose dwelling it is does not consent to the activity.

All three conditions must be met for an offence to be committed.

The offence of cuckooing would carry a maximum penalty of:

- In England and Wales, on summary conviction the maximum available in a magistrates' court, a fine, or both, and on indictment five years' imprisonment, an unlimited fine, or both.
- In Northern Ireland, on summary conviction six months' imprisonment, a £5,000 fine, or both and on and on indictment five years' imprisonment, a fine, or both.
- In Scotland, on summary conviction 12 months' imprisonment, a £5,000 fine, or both and on and on indictment five years' imprisonment, a fine, or both.

Specified offences are listed in schedule 5 of the bill. These include a wide range of offences related to knives and offensive weapons, firearms, theft, drugs, sexual offences and fraud. These provisions extend to the UK, and so

180 See NC7 on the amendment paper for report stage (PDF), 10 May 2024
181 Explanatory notes Crime and Policing Bill (PDF), para 46
182 Explanatory notes Crime and Policing Bill (PDF), para 47

separate offences are listed in England and Wales, Northern Ireland and Scotland. Clause 34 allows for respective administrations to amend the list of specified offences via secondary legislation.[183]

Clause 33 provides a definition of a 'dwelling of a person' and further explains conditions for someone to exercise control of a premises. Clause 33 also specifies how consent should be interpreted.

[183] This would be subject to draft affirmative procedure. See: Crime and Policing Bill - delegated powers memorandum (PDF) p.13-14

6 Sexual offences

The bill includes several measures related child sexual abuse and other sexual offending. In summary:

- Clauses 36 to 41 would introduce several new offences aimed at reducing the proliferation of child sexual abuse material (CSAM), including through the generation of CSAM using artificial intelligence (AI).
- Clause 42 would amend several existing offences involving sexual activity in the presence of a child or a person with a mental disorder as set out in the Sexual Offences Act 2003.
- Clause 43 would create a new statutory aggravating factor of grooming, which the courts would be required to apply when sentencing an adult for a specified child sex offence, where that offence had been facilitated by or involved the grooming of a child.
- Clause 44 would give Border Force officers the power to compel individuals at the border to unlock their electronic devices for search if there are reasonable grounds to suspect that the device is CSAM.
- Clauses 45 to 54 of the bill would introduce a new statutory duty (in England) for certain individuals to report child sexual abuse.
- Clause 55 would put the child sex offender disclosure scheme, often referred to as 'Sarah's law' after Sarah Payne, on a statutory footing.
- Clause 56 and schedule 8 would introduce several new offences relating to the taking of intimate images and voyeurism.
- Clause 57 would amend the offence of exposure in section 66 of the Sexual Offences Act 2003 to implement a recommendation of the Law Commission.
- Clause 58 would replace the existing offence of sexual penetration of a corpse with a wider offence of sexual activity with a corpse.

6.1 Child sexual abuse material

Clauses 36 to 41 would introduce several new offences aimed at tackling the proliferation of child sexual abuse material (CSAM), including through the generation of CSAM using artificial intelligence (AI).

Clause 44 would give Border Force officers the power to compel individuals at the border to unlock their electronic devices for search if there are reasonable grounds to suspect that the device is storing child sexual abuse images.

Background

The current law on CSAM

The creation, possession and distribution of CSAM is already illegal, including where it has been generated by AI. Relevant offences include:

- taking, making, distributing, showing, advertising or possessing for distribution any indecent photograph or film or pseudo-photograph or film (defined as "an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph") of a child under the age of 18 (sections 1 and 7 of the Protection of Children Act 1978)
- possessing an indecent photograph/film or pseudo-photograph/film (section 160 of the Criminal Justice Act 1988)
- possessing a prohibited image of a child (other than a photograph or pseudo-photograph), including a moving or still image produced by any means or data (stored by any means) capable of conversion into such an image (sections 62 and 65 of the Coroners and Justice Act 2009)
- possessing any item that contains advice or guidance about abusing children sexually (also referred to as a 'paedophile manual') (section 69 of the Serious Crime Act 2015)

A person involved in the above offences as a secondary party could potentially be prosecuted under the 'assisting or encouraging an offence' provisions in part 2 of the Serious Crime Act 2007, or under the 'aiding and abetting' provisions of section 8 of the Accessories and Abettors Act 1861.

The Internet Watch Foundation's research

The Internet Watch Foundation is a non-profit organisation set up in 1996 to tackle online CSAM, in particular to receive and assess reports of online CSAM and to identify and remove it.

In recent years, it has identified the use of AI to generate CSAM as a "significant and growing threat".[184] In a 2023 report on AI-generated CSAM, the Internet Watch Foundation said that although such material currently comprised "a small proportion" of the foundation's normal activities, "one of its defining features is its potential for rapid growth".[185] It also highlighted the likely increase in realism of AI-generated CSAM in coming years:

> ...it is worth re-emphasising that this [the position in 2023] is the worst, in terms of image quality, that AI technology will ever be. Generative AI only surfaced in the public consciousness in the past year; a consideration of what it will look like in another year – or, indeed, five years – should give pause. At some point on this timeline, realistic full-motion video content will become commonplace. The first examples of short AI CSAM videos have already been seen – these are only going to get more realistic and more widespread.[186]

The report identified that perpetrators could "legally download everything they need to generate these images"[187] (in terms of the AI tools required), and that the 'paedophile manual' offence in section 69 of the Serious Crime Act 2015 did not apply to pseudo-photographs.[188]

The report said that although recommending specific changes to existing CSAM legislation was "beyond the scope" of the report,[189] the Ministry of Justice should commission a review of the law in this area, including "ensuring the exchange of "hints and tips" and "paedophile manuals" on how to generate this content are made illegal".[190]

In a follow-up report in 2024, the Internet Watch Foundation set out more detailed recommendations for legislative change:

- That the Government legislates to ensure that paedophile manuals which exchange hints and tips on how to utilise text-to-image based generative AI tools to create child sexual abuse material are made illegal, by extending the existing offence, to cover pseudo images.
- That the Government legislates to make it an offence to use personal data or digital information to create digital models or files that facilitate the creation of AI or computer-generated child sexual abuse material.
- That the Government legislates to tackle the rise in generative AI chatbots which simulate the offence of sexual communication with a child.

184 Internet Watch Foundation, 2024 Update: Understanding the Rapid Evolution of AI-Generated Child Abuse Imagery [accessed 5 March 2025]

185 Internet Watch Foundation, How AI is being abused to create child sexual abuse imagery (PDF), October 2023, p6

186 As above, p46

187 As above, p6

188 Due to the definition of "abusing children sexually" in subsection 69(8), which includes offences under section 1 of the Protection of Children Act 1978 but with a specific exclusion for "pseudo-photographs"

189 As above, p44

190 As above, p5 (recommendation 2)

- That the Government legislates to ensure nudifying technology is not available to UK based users and encourages other Governments globally to take similar measures.[191]

The government's position

In opposition, Labour had supported two new clauses tabled by Vicky Ford (Conservative) at report stage of the Criminal Justice Bill 2023-24. Vicky Ford had worked with the Internet Watch Foundation on the new clauses, which sought to:

- extend the existing 'paedophile manual' offence to cover guides on creating "content which depicts the abuse of children", including through the use of AI
- criminalise the use, design or sharing of a tool (including digital and AI tools) to simulate sexual communication with a person under 16, such as an AI 'chatbot' service[192]

Speaking at report stage, the then Shadow Justice and Courts Minister Alex Cunningham expressed general support for legislation on AI CSAM:

> Criminals are finding new ways to harm children. As technology moves forward, it is right that the legislation aimed at protecting children from online harm must move with it.[193]

The new clauses were not added to the bill, but the then Victims and Safeguarding Minister Laura Farris committed to return to the issue when the bill reached the Lords.[194] However, the bill fell before this could happen when Parliament was dissolved due to the 2024 general election.

In February 2025, the government announced that it would legislate to introduce the following measures:

- an offence of possessing, creating or distributing AI tools designed to generate CSAM
- an offence of possessing an AI 'paedophile manual'
- an offence of operating a website to share CSAM or to give advice on grooming children
- a new power for Border Force officers to inspect the digital devices of individuals who they reasonably suspect pose a sexual risk to children, to tackle the distribution of CSAM filmed abroad[195]

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191 Internet Watch Foundation, What has changed in the AI CSAM landscape? (PDF), July 2024

192 NC25 and NC26 (PDF) – for analysis of the clauses see Internet Watch Foundation, Briefing from the Internet Watch Foundation: Criminal Justice Bill Report Stage (PDF), May 2024

193 HC Deb 15 May 2024 c315

194 HC Deb 15 May 2024 c371

195 Home Office, Britain's leading the way protecting children from online predators, 4 February 2025

The Internet Watch Foundation has welcomed the proposals but says further work is still needed on international alignment, the regulation of 'nudifying' apps, and regulatory oversight of AI models.[196]

The bill

Offence of possessing CSAM 'generators'

Clause 36 would add new sections 46A and 46B to the Sexual Offences Act 2003. These provisions would extend to England and Wales.

New section 46A would make it an offence to make, adapt, possess, supply or offer to supply a "CSA image-generator":

- "CSA image-generator" would be defined as "anything (including any service, any program, and any information in electronic form) which is made or adapted for use for creating, or facilitating the creation of, CSA images".

- "CSA images" would be defined as an indecent photograph or pseudo-photograph of a child within the meaning of the Protection of Children Act 1978, or a prohibited image of a child, within the meaning of section 62 of the Coroners and Justice Act 2009.

The explanatory notes to the bill state the above definitions would capture "AI models that have been optimised to create CSAM (for example, models that have been trained on existing child sexual abuse content) as well as wider technologies that can be used to create this content, such as CGI programmes".[197]

New sections 46A and 46B would set out several defences for a person charged with the new offence, including:

- a defence that they had been sent the CSA image-generator without having requested it and they did not keep it for an unreasonable time

- a defence that they did not know, and did not have cause to suspect, that the thing possessed, supplied or offered to be supplied was a CSA image-generator

- a defence that their conduct was for the purposes of the prevention, detection or investigation of crime, or for the purposes of criminal proceedings in any part of the world (the drafting of this defence does not limit its use to people employed in a professional law enforcement capacity)

196 Internet Watch Foundation, New AI child sexual abuse laws announced following IWF campaign, 2 February 2025

197 Explanatory Notes (PDF), para 395

- a defence that they were a member of the Security Services, the Secret Intelligence Service or GCHQ, and their conduct was for the purposes of the exercise of any function of those bodies

- a defence that they were a member of the media regulator Ofcom (or were employed or engaged by Ofcom or assisted it in the exercise of any of its online safety functions), and their conduct was for the purposes of Ofcom's exercise of any of its online safety functions

The maximum penalty for the offence would be five years' imprisonment and/or a fine. It would have extra-territorial jurisdiction, meaning it would be an offence in England and Wales for a British citizen or UK resident to commit the new section 46A offence overseas.

Anyone convicted of the new offence and sentenced to at least 12 months' imprisonment would be required to comply with the notification requirements set out in part 2 of that act (commonly referred to as the 'sex offenders register').

Offence of possessing advice or guidance about creating CSAM

Clause 37 would amend section 69 of the Serious Crime Act 2015 (the offence of possession of a 'paedophile manual') to extend it to guidance on the creation of CSAM. This would include the creation of pseudo-photographs within the meaning of the Protection of Children Act 1978 and prohibited images within the meaning of section 62 of the Coroners and Justice Act 2009. The bill's explanatory notes state that "AI generated CSAM could fall into either of these categories depending on the realism of the image".[198]

The existing defences in subsection 69(2) of the 2015 act (such as having a "legitimate reason" for possessing the guidance) would continue to apply to the expanded version of the offence, as would the existing maximum sentence of three years' imprisonment and/or a fine.

Anyone sentenced to the existing section 69 offence and sentenced to at least 12 months' imprisonment is required to comply with the notification requirements set out in part 2 of that act (commonly referred to as the 'sex offenders register'). This would continue to be the case for the new expanded offence.

Clause 37 would extend to England and Wales, and Northern Ireland.

Offence of online facilitation of child sexual exploitation and abuse

Clause 38 would introduce a new offence of carrying out a "relevant internet activity" with the intention of facilitating child sexual exploitation and abuse.

A "relevant internet activity" would be defined as:

[198] Explanatory Notes (PDF), para 405

- providing an internet service
- maintaining or helping to maintain an internet service (or part of such a service) provided by another person
- administering, moderating or otherwise controlling access to content on an internet service
- facilitating the sharing of content on an internet service[199]

Schedule 6 sets out the list of offences that would constitute "child sexual exploitation and abuse" for the purpose of the clause 38 offence. It includes the main contact and non-contact child sex offences across England and Wales, Scotland and Northern Ireland.

The maximum penalty would be 10 years' imprisonment and/or a fine. The new offence would extend to England and Wales, Northern Ireland and Scotland.

Clause 39 would give the new offence extra-territorial jurisdiction in certain circumstances, meaning that conduct amounting to an offence under clause 39 could be prosecuted in the UK even if were committed overseas.

Clause 40 would set out the circumstances in which an offence under clause 38 could be committed by a body corporate, partnership or unincorporated association.

Clause 41 would add the new offence to schedule 3 to the Sexual Offences Act 2003, meaning a person convicted of the new offence and sentenced to at least 12 months' imprisonment would be required to comply with the notification requirements set out in part 2 of that act (commonly referred to as the 'sex offenders register').

A new Border Force power

Clause 44 would add a new section 164B to the Customs and Excise Management Act 1979, which would set out a new power for Border Force officers to use if they have reasonable grounds to suspect that a person at the UK border (within the meaning of section 164 of the 1979 act) is "carrying an electronic device storing child sexual abuse images".

If an officer has such a suspicion, new section 164B would empower them to:

- scan the information stored on the device using technology approved by the Secretary of State to ascertain whether it includes child sexual abuse images
- require the person to permit the scan

[199] Clause 38 uses the definitions of internet service provider, internet service and content set out in sections 226, 228 and 236 of the Online Safety Act 2023

- require the person to take such steps as appear necessary to allow the scan to be performed (for example, unlocking the device)

The bill's explanatory notes give the following examples of when "reasonable grounds to suspect" might arise:

> The 'reasonable grounds to suspect' test may be satisfied, for example, where the person is the subject of an Interpol Notice for potential CSA offenders uploaded to the UK Border Watch List, UK Registered Sex Offenders, intelligence provided by the NCA [National Crime Agency], UK police force or received from international partners, possession of child abuse paraphernalia in luggage, or travel history/profile corresponding with frequent visits to destinations on the list of countries in which the Secretary of State considered children to be at high risk of sexual abuse or sexual exploitation by UK nationals or residents (see section 172 of the Police, Crime, Sentencing and Courts Act 2022).[200]

Failure to comply with a request from a Border Force officer exercising the new power would fall within the existing offence of obstructing an officer (section 31 of the Commissioners for Revenue and Customs Act 2005).

The Home Office explains that the power to scan an electronic device would only detect CSAM that is known to the Child Abuse Image Database (CAID):

> In recent years, the Home Office has developed the Child Abuse Image Database ("CAID") – a repository of all known CSAM detected during UK Police investigations. The CAID now holds millions of unique files. In parallel to the CAID, the capability now exists to undertake a rapid scan of a digital device to determine whether known material is held within its memory. Accordingly, it is possible to scan a digital device (such as a phone) for CAID material. As a scan is not a download, it will take approximately 15 seconds to identify whether CAID material is or is not present. This capability has now been operationalised at the UK Border, with trials generating significant intelligence around individuals representing a sexual risk to children – leading to investigation and arrests.[201]

It says that during a "consent-based trial" of the scanning technology, "of 44 devices examined with consent, 70% yielded actionable intelligence, of which 33% was relevant to child protection".[202]

The European Convention on Human Rights (ECHR) Memorandum accompanying the bill acknowledges that the new power engages the right to fair trial and the privilege against self-incrimination under Article 6, the right to privacy under Article 8, and the right to the peaceful enjoyment of one's property under Article 1 of the First Protocol to the ECHR. However, the memorandum states that the government is "satisfied that this new power is

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200 Explanatory Notes (PDF), para 438. For the current list of countries designated under section 172, see Home Office, List of countries under section 172 of the PCSC Act 2022, November 2022.

201 Home Office/Ministry of Justice, Crime and Policing Bill: Child sexual abuse material factsheet, 25 February 2025. See Home Office, Child abuse image database (CAID), 15 May 2024 for further details of CAID.

202 As above

a necessary and proportionate limitation on these rights and is narrowly tailored to address a grave social evil".[203]

6.2 Sexual activity in the presence of a child

Clause 42 is identical to a provision that was added to the Criminal Justice Bill 2023-24 at committee stage by the Conservative government.[204]

Clause 42 would amend several existing offences involving sexual activity in the presence of a child or a person with a mental disorder as set out in sections 11, 18, 32, 36 and 40 of the Sexual Offences Act 2003.

All of these offences currently include a requirement that, for the purpose of obtaining sexual gratification, the perpetrator:

- engaged in the sexual activity when the child or person with a mental disorder was present or in a place from which the perpetrator could be observed, and
- knew or believed that the child or person with a mental disorder was aware (or intended that they should be aware) that he or she was engaging in it.

Clause 42 would remove the second limb of this requirement, meaning the prosecution would no longer be required to prove that the defendant knew or believed that the child or person with a mental disorder was aware of the sexual activity.

Speaking at committee stage of the Criminal Justice Bill, the then Victims and Safeguarding Minister Laura Farris said that police and prosecutors had identified the second limb as a barrier to prosecution in a "small category of cases" where there was "insufficient evidence that the perpetrator knew, believed or intended that the child, or the person with a mental disorder, was aware of the sexual activity, most typically because the child was asleep".[205]

She said removing the second limb would capture cases such as where "a defendant masturbates over a sleeping child for the purpose of sexual gratification and subsequently seeks to argue that they did not believe the child was aware of the activity and did not even intend that the child should be aware of the activity".[206]

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[203] Home Office/Ministry of Justice, European Convention on Human Rights Memorandum (PDF), para 110

[204] Clause 15 of the Criminal Justice Bill as amended in Public Bill Committee (PDF). See pages 24 to 26 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill for full background.

[205] PBC Deb 30 January 2024 c468

[206] As above

She noted that the first limb of the requirement, which requires a link between the child's presence or observation and the perpetrator's sexual gratification, would remain:

> That requirement is critical because of the risk of over-criminalising those who engage in sexual activity with no malicious intent where a child may be present, such as parents sharing a bedroom.[207]

The then Shadow Policing Minister Alex Norris said the new clause was a welcome addition to the bill, and it was agreed by the committee without further debate.

6.3 Grooming as an aggravating factor

Clause 43 is substantively the same as a provision of the Conservative government's Criminal Justice Bill 2023-24.[208]

It is the first of several clauses that would implement recommendations of the Independent Inquiry into Child Sexual Abuse (the IICSA).[209] The IICSA, covering England and Wales, was established by the then Home Secretary, Theresa May, in 2015. It was tasked with examining the extent to which state and non-state institutions had "failed in their duty of care to protect children from sexual abuse and exploitation".[210]

Background

An aggravating factor is a factor that increases the seriousness of an offence and justifies increasing the severity of the sentence to be imposed (within the maximum sentence available for the offence in question).

Statutory aggravating factors are set out in the Sentencing Act 2020. Other aggravating factors are set out in sentencing guidelines produced by the independent Sentencing Council. Courts are required to follow any relevant sentencing guidelines, unless it is contrary to the interests of justice to do so.

The NSPCC defines grooming as a process that "involves the offender building a relationship with a child, and sometimes with their wider family, gaining their trust and a position of power over the child, in preparation for abuse."[211]

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207 As above

208 Clause 23 of the bill as introduced (PDF). See section 4.2 of the Library briefing Criminal Justice Bill 2023-24 for full background.

209 The bill also includes provisions on other IICSA recommendations: see clauses 45 to 54 on a mandatory reporting duty (discussed in section 6.4 of this briefing) and clause 77 on regulated activity (discussed in section 7.4 of this briefing)

210 IICSA, Terms of reference [accessed 4 March 2025]

211 NSPCC, Grooming: recognising the signs [accessed 6 March 2024}

At present, grooming is only referred to as an aggravating factor in sentencing guidelines. For example, the sentencing guideline for sexual activity with a child lists "Grooming behaviour used against victim" as an aggravating factor that increases the culpability of an offender.[212]

In its Child Sexual Exploitation by Organised Networks Investigation Report, published in February 2022, the IICSA recommended that the Sentencing Act 2020 should be amended to provide "a mandatory aggravating factor in sentencing in the case of the commission of an offence relating to a child, where child sexual exploitation by organised networks has occurred".[213]

The Conservative government announced in a press release in April 2023 that it would "make being the leader of or involved in a grooming gang a statutory aggravating factor".[214] It included a clause to this effect in the Criminal Justice Bill 2023-24. There was no opposition to this clause at committee stage. However, the bill fell as a result of the 2024 general election and the law did not therefore change.

On 6 January 2025, the Home Secretary Yvette Cooper said the Labour government would legislate to make grooming an aggravating factor in the sentencing of child sex offences.[215]

The bill

Clause 43 would create a new statutory aggravating factor that the courts would be required to apply when sentencing an adult aged 18 or over for a specified child sex offence, where that offence had been facilitated by or involved the grooming of a child under 18. The specified child sex offences are listed in subsections (4) to (7). The bill does not provide a definition of grooming.

There would be no requirement for the grooming itself to have been sexual.[216] The aggravating factor would apply whether the grooming had been undertaken by the offender or, if the offender knew or could reasonably have been expected to know about it, by a third party. The person groomed would not need to have also been the victim of the offence.

The government says this aims to capture "grooming gang" models of exploitation:

> The measure will capture models of exploitation not currently directly addressed by existing culpability factors in the Sentencing Guidelines, for example where an offender assaults a victim who has been groomed by

[212] Sentencing Council, Sexual activity with a child/ Causing or inciting a child to engage in sexual activity, 1 October 2014

[213] IICSA, Child Sexual Exploitation by Organised Networks Investigation Report, February 2022

[214] Prime Minister's Office, PM to clamp down on Grooming Gangs, 2 April 2023

[215] HC Deb 6 January 2025, c632

[216] Home Office/Ministry of Justice, Crime and Policing Bill: Independent Inquiry into Child Sexual Abuse recommendations, 25 February 2025

another member of the grooming gang or where a person under 18 has been groomed to recruit others, who are then sexually assaulted.[217]

6.4 Mandatory reporting

Clauses 45 to 54 of the bill would introduce a new statutory duty (in England) for certain individuals to report child sexual abuse. This would implement a key recommendation of the Independent Inquiry into Child Sexual Abuse (the IICSA). For detailed background, see the Library briefing Duties to report child abuse in England.

The clauses are similar (but not identical) to amendments put forward by the Conservative government at report stage of the Criminal Justice Bill 2023-24.[218] The bill fell due to the 2024 general election before the Commons had debated the proposals.

Background

The current position

There is currently no general statutory obligation for individuals in England to report child abuse.

Government statutory guidance, Working Together to Safeguard Children, states that "anyone who has concerns about a child's welfare should consider whether a referral needs to be made to local authority children's social care and should do so immediately if there is a concern that the child is suffering significant harm or is likely to do so".[219]

This does not impose a legislative requirement to report abuse but creates an expectation that those working with children will comply with the guidance unless there are exceptional circumstances.[220]

There have been calls, particularly following high-profile child abuse cases, for a mandatory reporting duty to be introduced for specific groups, such as social workers and teachers.[221] Proponents of mandatory reporting argue that it would offer greater protection to children – for example, by increasing the

217 As above

218 See section 3.1 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill for full background

219 HM Government, Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children, December 2023, para 150

220 IICSA, The Report of the Independent Inquiry into Child Sexual Abuse, HC 720, October 2022, p219

221 See for example Starved boy Daniel Pelka 'invisible' to professionals, 17 September 2013, BBC News and Daniel Pelka: call for debate on mandatory reporting of child abuse, Guardian, 17 September 2013

likelihood of at risk children being identified.[222] However, others raise concerns, including that it could create a 'needle in a haystack' effect and result in a 'tick-box' approach.[223]

The IICSA report

One of the IICSA's key recommendations was that legislation should be introduced in England and Wales (by the UK Government and the Welsh Government respectively) to place certain individuals classed as "mandated reporters" under a statutory duty to report child sexual abuse.[224]

The IICSA recommended that the duty should apply where a mandated reporter:

- receives a disclosure of child sexual abuse from a child or perpetrator
- witnesses a child being sexually abused
- observes recognised indicators of child sexual abuse (such as sexualised or sexually harmful behaviour, or physical signs or consequences of sexual abuse such as pregnancy or sexually transmitted diseases)

The IICSA recommended that the following roles should be classed as "mandated reporters":

- any person working in regulated activity in relation to children (under the Safeguarding and Vulnerable Groups Act 2006)
- any person working in a position of trust (as defined by the Sexual Offences Act 2003)
- police officers

A mandated reporter should, the IICSA recommended, report any act that would amount to an offence under the Sexual Offences Act 2003 where the alleged victim is aged under 18. It said, however, that an exception to the mandatory reporting requirement should apply in the context of consensual, non-abusive relationships between young people aged between 13 and 16.

The IICSA recommended that reports should be made to either local authority children's social care or the police as soon as practicable.

It also recommended that it should be a criminal offence for mandated reporters to fail to report child sexual abuse where they have received a disclosure of child sexual abuse from a child or perpetrator, or have

222 See for example HC Deb 12 September 2013, c1234 and The Report of the Independent Inquiry into Child Sexual Abuse, HC 720, October 2022, p222-224

223 HM Government, Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action, March 2018, pp5-6

224 IICSA, The Report of the Independent Inquiry into Child Sexual Abuse, HC 720, October 2022, pp225-231

witnessed a child being sexually abused. However, the IICSA considered that it should not be an offence to fail to report in cases based on observations of recognised indicators of child sexual abuse, as identifying abuse on this basis is "more complicated".[225]

The Conservative government

In April 2023, the then Home Secretary Suella Braverman said she planned to implement the IICSA's recommendation for a new mandatory reporting duty and would be launching a call for evidence to seek views.[226] The call for evidence was published alongside the government's formal response to the IICSA report in May 2023, followed by a public consultation in November 2023.[227] In its response to the consultation, the government confirmed its plans to legislate.[228]

In February 2024, the government said a mandatory reporting duty would be introduced via amendments at Commons report stage to the Criminal Justice Bill 2023-24.[229] The government's amendments were subsequently tabled before the first of two days scheduled for the bill's report stage, on 15 May 2024.[230]

The government's proposed mandatory reporting duty differed in two notable ways from that proposed by the IICSA:

1. The duty would only have applied to cases where the mandated reporter had been told about or had witnessed child sexual abuse. Contrary to the IICSA recommendation, it would not have applied in cases where the mandated reporter had observed recognised indicators of child sexual abuse. In its response to the consultation on the new duty, the government said this meant breaching the duty would involve "deliberate inaction in the face of disclosures rather than a subjective assessment of indicators", in acknowledgement of "strong feedback … that recognising child sexual abuse is likely to be difficult for those without formal training or who see children infrequently".[231]

2. It would have been an offence to prevent or deter a person from complying with the duty, but failure to comply with the duty would not itself have been a criminal offence. In its consultation response, the

225 IICSA, The Report of the Independent Inquiry into Child Sexual Abuse, HC 720, October 2022, p227

226 Gov.uk, New measures to tackle child sexual abuse, 3 April 2023

227 Gov.uk, Mandatory reporting of child sexual abuse: call for evidence, May 2023, Response to the final report of the Independent Inquiry into Child Sexual Abuse, May 2023, and Child sexual abuse: mandatory reporting, November 2023

228 Gov.uk, Government response: mandatory reporting of child sexual abuse consultation, 9 May 2024

229 Home Office, Tougher laws to protect children from sexual abuse, 21 February 2024

230 See NC65-NC73 and NS2 on the amendment paper for report stage of the Criminal Justice Bill (PDF), section 3.1 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill and section 2.3 of the Library briefing Duties to report child abuse in England

231 Home Office, Child sexual abuse: mandatory reporting, 2 November 2023

government said it was "testing the view that non-criminal sanctions might provide more proportionate penalties". It went on:

> These [sanctions] could ensure that each case will be individually considered by regulating bodies and/or the DBS, organisations which have a wealth of experience in assessing behaviours which indicate a future risk to children and implementing a proportionate response. The toughest sanction for breach by a regulated professional would be potential loss of livelihood where this is deemed appropriate by the regulating body, while for others it would mean they would no longer be able to volunteer with, or support, children.[232]

The government's amendments were criticised by some as falling short of what the IICSA had recommended. Alexis Jay, who had chaired the IICSA, was reported as saying the government's amendments were a "fudge" and "not a very good one".[233] The pressure group Mandate Now, which campaigns for mandatory reporting, noted that the government's amendments did not address how non-criminal sanctions such as referrals to the Disclosure and Barring Service (DBS) would be made in practice. It described the proposed duty as "a waste of printer's ink" in the absence of a published enforcement mechanism.[234]

The Commons did not have a chance to debate the amendments as the bill fell before report stage had concluded when Parliament was dissolved for the 2024 general election.

The Labour government

The Labour Party had supported calls for the introduction of a mandatory reporting duty when in opposition, although its 2024 election manifesto did not specifically refer to the issue.[235]

On 6 January 2025, the Home Secretary, Yvette Cooper, said the government would "make it mandatory to report abuse" and that failing to report child sexual abuse would be "an offence, with professional and criminal sanctions".[236]

The Shadow Home Secretary, Chris Philp, welcomed the commitment to introduce mandatory reporting. He noted the previous action by the Conservative government and said the opposition would "support the Government in the continuation of that measure".[237]

232 Home Office, Child sexual abuse: mandatory reporting, 2 November 2023
233 "New child abuse laws a 'fudge', inquiry chair says", BBC News, 10 May 2024
234 Mandate Now, The Government's useless Child Sexual Abuse Reporting law [accessed 3 March 2025]
235 Labour Party, Change: Labour Party Manifesto 2024 (PDF), June 2024
236 HC Deb 6 January 2025, c632
237 HC Deb 6 January 2025, c634

The bill

Clauses 45 to 54 of the bill would introduce a new mandatory duty to report child sexual abuse. The new duty would only apply in England.[238]

The provisions are broadly similar to those proposed by the Conservative government, with some differences relating to delaying the duty to report and the mechanism for referring people who fail to meet the duty to the Disclosure and Barring Service (DBS).

The duty to report

Clause 45 would require a person to make "a notification" to the police and/or a local authority if, in the course of engaging in a "relevant activity" in England, they are given "reason to suspect" that a child sex offence may have been committed (at any time).

"Relevant activity" would be defined as:

- regulated activity relating to children within the meaning of part 1 of schedule 4 to the Safeguarding Vulnerable Groups Act 2006, which covers roles such as teachers and healthcare professionals,[239] or
- an activity specified in part 2 of schedule 7 to the bill, which includes certain positions of trust not covered by the 2006 act, and police constables

The notification would have to be made "as soon as possible" either orally or in writing.

Subsection 45(13) provides that the mandatory reporting duty would apply to "persons in the service of the Crown".[240] This provision has been included to ensure that Crown servants carrying out relevant activity are subject to the mandatory duty "in the same way that it applies to other persons".[241] It does not have the effect of limiting the mandatory duty only to Crown servants. This provision has been included due to the common law rule of statutory construction that an act of the UK Parliament does not bind the Crown unless by express provision or necessary implication.[242]

"Reason to suspect"

The duty would only arise where a person engaging in a relevant activity has "reason to suspect" a child sex offence has been committed. Under clause 47,

238 See section 3.1 of the Library briefing Duties to report child abuse in England for the position in Wales (and other jurisdictions)

239 See DBS, Regulated activity with children in England and Wales, 21 February 2025 for further details.

240 This includes ministers, their civil servants, and certain other persons such as members of the armed forces. See Office of the Parliamentary Counsel, Crown Application (PDF), January 2021 for further details.

241 Explanatory Notes (PDF), para 451

242 See Office of the Parliamentary Counsel, Crown Application (PDF), January 2021 for further details.

a person (P) would be given "reason to suspect" in the following circumstances (and no others):

- where P witnesses conduct constituting a child sex offence (including by seeing a still or moving image or hearing an audio recording)
- where a child or a suspected perpetrator communicates something to P that would cause a reasonable person engaging in the same relevant activity as P to suspect that a child sex offence may have been committed

In common with the Conservative government's proposals, and in contrast to the IICSA recommendation, a "reason to suspect" would not arise (and the duty to report would not therefore be triggered) in cases where P had observed recognised indicators of child sexual abuse but had not otherwise witnessed or received information about a child sex offence.

Delaying the duty to report: Risk to life or safety

Under subsection (5) of clause 45, the duty would not apply for an initial period of seven days (starting with the date on which the person's 'reason to suspect' a child sex offence arose) where the person reasonably believed that making a notification would "give rise to a risk to the life or safety of a relevant child". The bill's explanatory notes state that allowing a notification to be delayed in such cases would enable that risk to be managed (for example, if there was a risk that a child might self-harm if a notification were made).[243]

This is narrower than the equivalent provision in the Conservative government amendments, under which the duty to report would not have applied "for such time as the person reasonably believes that it is not in the best interests of each relevant child to make a notification".[244] This drafting was criticised at the time by the journalist and child abuse survivor Alex Renton, who said it "could allow abuse to continue".[245]

Delaying the duty to report: Another person reporting

Under subsection (6) of clause 45, the duty would not apply for the same initial period of seven days where the person reasonably believed that another person would make a notification in connection with the suspected offence in that period. The explanatory notes give the example of a situation where a teacher passes information of a suspicion that would otherwise engage the duty to report to their school's designated safeguarding lead, "reasonably believing that the safeguarding lead will make a notification on their behalf".[246]

243 Explanatory Notes (PDF), para 444
244 Gov NC65, subsection (4) (PDF)
245 "New child abuse laws a 'fudge', inquiry chair says", BBC News, 10 May 2024
246 Explanatory Notes (PDF), para 444

Under subsection (7) of clause 45, only one person would need to make a notification for each suspected offence. Using the same teacher example as above, the explanatory notes say the teacher's duty would be "satisfied when the safeguarding lead provides confirmation to the teacher that a notification has been made on their behalf to the police and/or local authority".[247]

Exceptions to the duty

The duty to report would be subject to three exceptions relating to consensual sexual activity between children, children making disclosures about their own behaviour, and the provision of confidential support services.

Under clauses 48 and 49, a person would not have a duty to report if their suspicion related to consensual sexual activity between children aged 13 to 17 and they were satisfied that making a report "would not be appropriate; taking into account the circumstances and risk of harm to those involved".[248] The explanatory notes say the appropriateness condition has been included "to ensure that, in cases where the reporter has concerns that the relationship between the children, for example, is abusive or includes an element of coercion, they should make a notification".[249]

Under clause 50, a person would not have a duty to report if their suspicion resulted from a disclosure by a child that they may have committed a child sex offence (provided the others involved in the potential offence were aged 13 or over). The explanatory notes say the aim of this exception is "to ensure that children are not deterred from seeking support in relation to their own harmful sexual behaviour".[250]

Under clause 51, the duty would not apply to a person providing a service or description of service specified in regulations made by the Secretary of State. The Secretary of State would only be able to designate a service as "specified" if satisfied that:

- the service relates to the safety or well-being of children, and
- it is in the interests of children for the service to be provided on a confidential basis.

The explanatory notes say that this provision is intended to be engaged "on an exceptional basis where confidentiality is deemed operationally necessary for services which relate to the safety and wellbeing of children".[251]

Sanctions: No criminal offence of failing to report

Under clause 52 it would be an offence for a person who knows that someone is under a duty to report to "engage in any conduct with the intention of

247 Explanatory Notes (PDF), para 445
248 Clause 48(5) and 49(5)
249 Explanatory Notes (PDF), para 459
250 Explanatory Notes (PDF), para 465
251 Explanatory Notes (PDF), para 466

preventing or deterring that person from complying with that duty". It would be a defence for a person charged with this offence to show that their conduct only amounted to making representations about the timing of a notification "in light of the best interests" of the child involved. The maximum sentence would be seven years' imprisonment and/or a fine.

Contrary to the IICSA recommendation (but in common with the Conservative government's proposals), the bill does not include a criminal offence of failing to report. Instead, the bill would amend the Safeguarding Vulnerable Groups Act 2006 so that "failing to comply with the duty to report is a behaviour that should be considered relevant for considering inclusion on the children's barred list maintained by the Disclosure and Barring Service".[252]

The government has noted that a "significant proportion" of people covered by the proposed duty would be "volunteers, giving up their time to support their child's sports team, for example".[253] It did not therefore consider criminal sanctions for a failure to report to be a proportionate response:

> We do not think it would be proportionate to create a criminal sanction for failure to comply with the duty. This could create a 'chilling effect' where people are reluctant to volunteer or even to enter the professions because they fear being criminalised for making a mistake. It could even drive the hidden crime of child sexual abuse further into the shadows, as dedicated adults avoid undertaking activity with children for fear of ending up in court.
>
> The purpose of mandatory reporting is to improve the protection of children. Our aim is to create a culture of support, knowledge and openness when dealing with child sexual abuse. That is why we consider it more appropriate for those who fail to discharge their duty to face referral to the Disclosure and Barring Service, and professional regulators where applicable. These bodies can prevent individuals from working with children – potentially losing their livelihood. This is a serious consequence, which will have the greatest impact on the right cohorts of people.

The lack of criminal sanction for failure to report has been criticised by campaigners. For example, the vice president of the National Secular Society, which has called for mandatory reporting as part of combating abuse within religious institutions, has described the provisions as "inadequate" and falling short of what the IICSA had recommended.[254]

6.5 The Child Sex Offender Disclosure Scheme

Clause 55 would put the child sex offender disclosure scheme, often referred to as 'Sarah's law' after Sarah Payne, on a statutory footing. The scheme

252 Explanatory Notes (PDF), para 471 and clause 54(2)

253 Home Office/Ministry of Justice, Crime and Policing Bill: Independent Inquiry into Child Sexual Abuse recommendations, 25 February 2025

254 National Secular Society, Proposed duty to report sex abuse branded 'useless' by campaigners, 4 March 2025

enables parents, guardians and carers to access information about sex offenders who may pose a risk to their children.

It replicates a new clause that the Conservative government had tabled for consideration at report stage of the Criminal Justice Bill 2023-24.[255] However, the bill fell due to the 2024 general election before the new clause could be debated or added to the bill.

Clause 55 would enable (but not require) the Secretary of State issue guidance to chief officers of police forces about the disclosure of police information for the purpose of preventing the commission of offences listed in Schedule 3 to the Sexual Offences Act 2003.[256] Chief officers would be required to have regard to any guidance issued under clause 55.

The scheme is currently covered by non-statutory guidance and templates issued by the Home Office.[257]

6.6 Intimate images and voyeurism

Clause 56 and schedule 8 would introduce several new offences relating to the taking of intimate images and voyeurism.

Clause 56 and schedule 8 mirror provisions of the Conservative government's Criminal Justice Bill 2023-24.[258] However, these provisions did not become law as that bill fell due to the 2024 general election.

The Conservative government had also tabled an amendment to the Criminal Justice Bill (for consideration at report stage) that would have criminalised the creation of 'deepfake' intimate images. The Labour government is legislating on this issue separately through clause 141 of the Data Use and Access Bill [HL] 2024-25. Section 10.10 of the Library's briefing on that bill provides further details.

Background

The current criminal law

There is currently no single criminal offence that covers intimate image abuse. Instead, the Sexual Offences Act 2003 sets out several offences covering different types of image and different types of conduct.

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255 Gov NC73 (PDF)

256 Schedule 3 lists the offences in respect of which a conviction or caution will require the offender to comply with the notification requirements set out in Part 2 of the Sexual Offences Act 2003, commonly referred to as the 'sex offenders register'.

257 Home Office, Guidance: Child sex offender disclosure scheme guidance, last updated April 2023

258 Clause 14 and Schedule 2 of the Criminal Justice Bill as amended in Public Bill Committee (PDF). See section 2.5 of the Library briefing Criminal Justice Bill 2023-24 for full background.

Section 66B of the 2003 act sets out a group of offences that are committed when a person shares (or threatens to share) photographs or films that show, or appear to show, another person in an "intimate state", without the consent of the person depicted.[259]

Section 67 and 67A of the 2003 act set out various offences that cover the recording and taking of intimate images without consent, for example by installing or operating equipment to do so.[260]

The Law Commission's review

In July 2022, the Law Commission concluded a review of the law on Taking, making and sharing intimate images without consent, in which it described the existing criminal law as a "patchwork" and noted the offences had failed to keep up with developments in technology and sexual offending.[261] It therefore recommended that the government replace the existing offences with a new tiered framework, including a 'base' offence of taking or sharing an intimate image without consent without the need to prove any additional motivation or intent on the part of the offender.

Action by the Conservative government

The then Justice Secretary Dominic Raab said in a statement in November 2022 that the government planned to legislate to introduce a package of new offences based on the Law Commission's recommendations.[262]

A new set of offences on sharing (or threatening to share) intimate images was subsequently introduced through sections 188 and 190 of the Online Safety Act 2023.

The government had intended to use the Criminal Justice Bill 2032-24 to introduce "a range of complementary offences to tackle the "taking or recording" of such images and installing equipment to enable a person to commit a "taking or recording" offence".[263] However, as set out above, the Criminal Justice Bill fell due to the 2024 general election and the proposed offences did not become law.

The Labour government

In January 2025, Justice Minister Alex Davies-Jones announced that the government would be legislating to "introduce new offences for the taking of intimate images without consent and the installation of equipment with intent to enable the taking of intimate images without consent".[264]

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259 Section 66B was added to the 2003 act by the Online Safety Act 2023, based on recommendations made by the Law Commission as part of the review referred to below. "Intimate state" is defined in section 66D(5) of the 2003 act.

260 See the voyeurism offences in sections 67 and 67A of the Sexual Offences Act 2003

261 Law Commission, Intimate image abuse: a final report (PDF), July 2022

262 HCWS388 [on Intimate Images Abuse Offences], 25 November 2022

263 Explanatory Notes to the Criminal Justice Bill (PDF), para 49

264 HCWS354 [on Tackling Intimate Image Abuse and Sexually Explicit Deepfakes], 7 January 2025

The bill

Clause 56 and schedule 8 would add new sections 66AA to 66AC to the Sexual Offences Act 2003 (which would set out five new offences relating to intimate images and voyeurism), repeal the existing offences of recording a person doing a private act (s67(3) of the 2003 act) and recording an image beneath the clothing of another person (s67A(2) of the 2003 act), and make a range of related and consequential amendments.

New section 66AA would set out three offences of taking or recording an intimate photograph or film:

- an offence of intentionally taking a photograph or recording a film that shows another person in an intimate state, without that person's consent (or a reasonable belief in their consent)
- an offence of intentionally taking a photograph or recording a film that shows another person in an intimate state, without that person's consent and with the intent to cause them alarm, distress or humiliation
- an offence of intentionally taking a photograph or recording a film that shows another person in an intimate state, without that person's consent (or a reasonable belief in their consent) and for the purpose of obtaining sexual gratification for themselves or another person

The first of these offences would carry a maximum sentence of six months' imprisonment and/or a fine, while the others would carry a maximum sentence of two years' imprisonment and/or a fine.

Under new section 66AB similar exemptions would apply to these offences as apply to the offences of sharing (or threatening to share) intimate photographs and films set out in sections 66B to 66D of the 2003 act:

- where the image was taken in a public place where the person in the image had no reasonable expectation of privacy and was in an intimate state voluntarily
- where the image is of a person under 16 who lacks capacity to consent to the taking or recording of the image, and the image was taken or recorded by a healthcare professional acting in that capacity or otherwise in connection with care or treatment by a healthcare professional, and
- where the image is of a child in an intimate state and is "of a kind ordinarily taken or recorded" by family or friends, such as "a family member taking a photograph of a group of toddlers in a paddling pool at a family barbeque".[265]

[265] Explanatory Notes (PDF), para 489

New section 66AC would introduce new offences of installing, adapting, preparing or maintaining equipment with the intention of committing (or enabling another person to commit) any of the "taking" offences in section 66AA. The maximum penalties for the section 66AC offences would mirror those for the section 66AA "taking" offences to which they relate.

6.7 Exposure

Clause 57 would amend the offence of exposure in section 66 of the Sexual Offences Act 2003 to implement a recommendation of the Law Commission.

Background

Under section 66 of the Sexual Offences Act 2003, it is an offence for a person to intentionally expose their genitals if they intend that someone will see them and be caused alarm or distress.

Under section 66A of the 2003 act, it is an offence for a person to send a photograph or film of any person's genitals to another person either:

- with the intention that the other person will see the genitals and be caused alarm, distress or humiliation, or
- for the purpose of obtaining sexual gratification and being reckless as to whether the other person will be caused alarm, distress or humiliation.

The section 66A offence is often referred to as 'cyberflashing'. It was added to the 2003 act by the Online Safety Act 2023, as part of the Conservative government's implementation of recommendations made by the Law Commission in its 2021 report Modernising Communications Offences.

The bill's explanatory notes state that the Law Commission said it had received evidence to suggest that the intention to cause alarm or distress was "too narrow a fault element", and that "sexual gratification or a desire to humiliate the victim were both key drivers of exposure behaviour".[266]

The government therefore "considers it necessary" to amend the section 66 offence to "capture circumstances where the purpose in exposing their genitals is to humiliate or to obtain sexual gratification".[267] This would also make the section 66 offence consistent with section 66A.

[266] Explanatory Notes (PDF), para 76
[267] As above, para 79

The bill

Clause 57 would amend the section 66 offence so that it could be committed either where a person:

- intends that someone will see their genitals and be caused alarm, distress or humiliation, or
- exposes their genitals for the purpose of obtaining sexual gratification, and does so:
  - with the intention that someone will see them, and
  - being reckless as to whether someone who sees them will be caused alarm, distress or humiliation.

A person would not commit an offence under the second bullet (for sexual gratification) if they intend that only a particular person (or persons) will see their genitals, unless they are reckless that that particular person (or at least one those persons) will be caused alarm, distress or humiliation.

The explanatory notes say this wording is to exclude incidents such as "where the exposure is carried out between a consenting couple in a secluded area, but another individual accidentally witnesses the behaviour" from the scope of the offence.

6.8 Sexual activity with a corpse

Clause 58 would replace the existing offence of sexual penetration of a corpse with a wider offence of sexual activity with a corpse. The clause replicates a provision of the Conservative government's Criminal Justice Bill 2023-24, which fell due to the 2024 general election.[268]

Background

The existing criminal law

Section 70 of the Sexual Offences Act 2003 sets out an offence of sexual penetration of a corpse, which is committed where a person intentionally sexually penetrates (with a part of their body or anything else) the body of a dead person, and the person knows or is reckless as to whether that is what is being penetrated. The maximum penalty is two years' imprisonment.

The offence was used in the high-profile case of David Fuller, a former hospital electrician who was convicted of multiple counts of sexual

[268] See section 2.4 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill for full background

penetration of a corpse under section 70 involving the bodies of at least 100 women and girls in hospital mortuaries.[269]

However, the section 70 offence could not be used to prosecute David Fuller in relation to further allegations of non-penetrative sexual activity with the bodies of his victims.

Previous attempts to introduce a new offence

During committee stage of the Conservative government's Criminal Justice Bill 2023-24, Stephen Metcalfe (Conservative) moved a new clause that sought to introduce a new offence of sexual interference with a corpse, to sit alongside the existing section 70 offence. He said the Fuller case had highlighted a "loophole" in the existing legislation in relation to non-penetrative sexual assault of a dead body, which needed to be closed.[270]

The then Victims and Safeguarding Minister Laura Farris said the government had reviewed the section 70 offence, agreed there was "a gap in the law", and had concluded that the criminal law should be "expanded to include non-penetrative sexual activity with a corpse".[271] She added that the government also considered the current maximum sentence for the section 70 offence (two years' imprisonment) to be inadequate, and that it should be increased to five years. However, she identified several issues with the drafting of Stephen Metcalfe's new clause that meant the government could not accept it as drafted.

With government support, Greg Clarke and Tracey Crouch (both Conservative), whose constituencies were among those affected by David Fuller's offending, moved a new clause at report stage that would have replaced the existing version of section 70 with a new version covering both penetrative and non-penetrative sexual "touching" of a corpse.[272] The maximum penalty would have been seven years' imprisonment for offences involving penetration, and five years' imprisonment for other cases.

Greg Clarke described the existing two year maximum sentence for the section 70 offence as "absurdly inadequate to deal with, in effect, the rape of dead bodies" and criticised the gap in the law in relation to non-penetrative sexual activity.[273]

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269 Crown Prosecution Service, UPDATED with sentence: Hospital electrician pleads guilty to further necrophilia offences, 7 December 2022. The evidence to support these convictions came to light when Fuller was under police investigation for two historic murders, which he was also convicted of: "David Fuller: Man admits 1987 murders and abusing corpses", BBC News, 5 December 2021.

270 PBC Deb 30 January 2024 c476

271 As above

272 See NC62 on the amendment paper for report stage (PDF), 10 May 2024 and Letter from Laura Farris and Chris Philp to Alex Norris and Alex Cunningham (PDF), 9 May 2024

273 HC Deb 15 May 2025 c325

The new clause was agreed by the Commons without a vote and added to the bill. However, the Criminal Justice Bill fell due to the 2024 general election and so the new clause did not become law.

The bill

Clause 58 replicates the new clause that was added to the Conservative government's Criminal Justice Bill at report stage.

It would replace section 70 of the Sexual Offences Act 2003 with a new offence of sexual activity with a corpse, which would be committed if a person intentionally performs an act of sexual touching (with a part of their body or anything else) on the body of a dead person, and the person knows or is reckless as to whether that is what is being touched.

The maximum sentence would be seven years' imprisonment for penetrative touching, and five years' imprisonment for non-penetrative touching.

The government says the new offence would recognise "the impact that both penetrative and non-penetrative activity with a corpse can have on the family of the deceased".[274]

[274] Ministry of Justice, Impact Assessment MoJ016/2024, 13 February 2025, para 10

7 Stalking

The bill includes measures aimed at protecting people from stalking. In summary:

- Clause 69 would allow the criminal courts to impose a stalking protection order on a defendant who has been acquitted of any offence, or who has successfully appealed against a conviction for any offence.
- Clause 70 would amend the Sentencing Act 2020 to make equivalent provision allowing the criminal courts to impose a stalking protection order on an offender who has been convicted of any offence.
- Clause 71 would enable the Secretary of State to issue statutory guidance about stalking offences, stalking protection order or any other matters relating to stalking.
- Clause 72 would enable the Secretary of State to issue guidance to the police about the disclosure of police information for the purpose of protecting persons from risks associated with stalking.

7.1 Background

The nature of stalking

In broad terms, stalking occurs when someone repeatedly behaves in a way that makes a person feel scared, distressed or threatened, by an act or omission associated with stalking.

The Suzy Lamplugh Trust, a personal safety and stalking charity, describes stalking as a "pattern of fixated and obsessive behaviour which is repeated, persistent, intrusive and causes fear of violence or engenders alarm and distress in the victim".[275]

Section 2A of the Protection from Harassment Act 1997 provides examples of acts or omissions associated with stalking, including:

- Following a person
- Contacting, or attempting to contact, a person by any means

[275] Suzy Lamplugh Trust, What is stalking? [accessed 6 March 2025]

- Monitoring the use by a person of the internet, email or any other form of electronic communication
- Watching or spying on a person

The Protection from Harassment Act 1997 sets out two criminal offences of stalking:

- pursuing a course of conduct amounting to stalking (section 2A), with a maximum sentence of six months' imprisonment
- stalking involving fear of violence or serious alarm or distress (section 4A), with a maximum sentence of 10 years' imprisonment

Stalking protection orders

Stalking protection orders (SPOs) are civil orders that can be used to impose restrictions and requirements on stalking perpetrators (or people thought to pose a risk associated with stalking).

SPOs are governed by the Stalking Protection Act 2019, supported by statutory guidance issued by the Home Office.

Under the 2019 act, a chief officer of police can apply to a magistrates' court for an SPO in respect of a person (the 'defendant') if:

- the defendant has carried out acts associated with stalking,
- the defendant poses a risk (whether physical or psychological) associated with stalking to another person, and
- there is reasonable cause to believe the SPO is necessary to protect another person from such a risk (whether or not that person has already been the victim of stalking by the defendant).

An SPO may, for the purpose of preventing the defendant from carry out acts associated with stalking, prohibit or require the defendant to do anything set out in the order. The police can request specific prohibitions or requirements but the final decision is for the court.

The statutory guidance sets out examples of prohibitions or requirements that may be suitable, such as a prohibition on entering a certain location or contacting the victim, or a requirement to attend a mental health assessment or to provide the police with access to social media accounts and mobile phones.[276]

[276] Home Office, Stalking Protection Orders: statutory guidance for the police, April 2024

The courts do not currently have the power to issue an SPO other than on application by the police. Without such an application, an SPO cannot be issued.

Breaching an SPO is a criminal offence carrying a maximum sentence of five years' imprisonment and/or a fine.

The police super-complaint

In November 2022, the Suzy Lamplugh Trust (on behalf of the National Stalking Consortium) submitted a 'super-complaint' against the police on the grounds that there were "systemic issues" with their response to stalking.[277]

The super-complaint said there was "a lack of understanding among officers as to what behaviours constitute stalking" and that "in the cases where stalking is identified, too often police are not investigating the crime appropriately".[278] On the linked issue of SPOs, the super-complaint said:

> The Consortium is of the opinion that these orders are frequently not being applied for when requested by the victim or their Independent Stalking Advocate and in the rare cases where they have been obtained, breaches are often not responded to in a timely or efficient manner. Finally, we have found that repeated breaches of SPOs and other protective orders are not resulting in police treating these incidents as a fresh offence of stalking, which leads to the victim being left without adequate protections, and in many cases allows for the perpetrator to continue their behaviour undeterred.[279]

The super-complaint was subject to a joint investigation by the Independent Office for Police Conduct (IOPC), HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and the College of Policing.[280] A report on the investigation's findings was published in September 2024. The report made 29 recommendations for improving the police response to stalking, including the two recommendations for the Home Office to bring forward legislation in the 2024-25 parliamentary session:

- legislation to change the criminal law related to stalking so that it is easier for the police to understand and apply (including issuing statutory guidance), looking in particular at the definition of stalking and whether there should be a single stand-alone offence (recommendation 1)

- legislation to change the legal framework for SPOs to align them more closely to protective orders available in domestic abuse cases (where a senior police officer can approve an interim 'notice' before an application

277 Suzy Lamplugh Trust, Super-complaint submitted on police response to stalking, November 2022. A police super-complaint can only be submitted by designated organisations in order to raise concerns (on behalf of the public) about harmful patterns or trends in policing: see GOV.UK, Police super-complaints [accessed 6 March 2025] for further details

278 Suzy Lamplugh Trust, Super-complaint submitted on police response to stalking, November 2022

279 Suzy Lamplugh Trust/National Stalking Consortium, Super-complaint on the police response to stalking, 24 November 2022, pp4-5

280 GOV.UK, Super-complaint on the police response to stalking [accessed 6 March 2025]

for an order is made to court), to allow the courts to issue an SPO on the conviction or acquittal of a defendant, and to allow chief constables to apply for SPOs in respect of perpetrators outside their police force area (recommendation 3)[281]

The government's position

On 3 December 2024, Safeguarding Minister Jess Phillips announced that the Home Office would be legislating to introduce a power to issue multi-agency statutory guidance on stalking, to introduce statutory "right to know" guidance to give victims of anonymous online stalkers the right to know who they are, and to enable the courts to impose SPOs on conviction and acquittal.[282]

Responding to the announcement, Isabelle Younane, Head of External Affairs at Women's Aid, said that changes to SPOs will only work if "underlying issues are addressed and police forces and other agencies consistently understand and implement these orders, including meaningful consequences for those who breach them".[283]

Emma Lingley, the interim chief executive of the Suzy Lamplugh Trust, said that she hoped the changes would "improve the recognition and management of stalking and better support those affected by this devastating crime".[284]

In January 2025, Jess Phillips set out the government's formal response to the super-complaint report.[285]

On recommendation 1, she agreed with the report's assessment that the legislation on stalking "could be contributing to confusion regarding how stalking is described".[286] She said that "careful consideration needs to be given to the specific areas of legislative change" highlighted by recommendation 1, and she was therefore "committing to conducting a review of the stalking legislation to determine how the law should be changed".[287]

Jess Phillips welcomed the spirit of recommendation 3 on SPOs, as the government had committed to strengthening SPOs in its 2024 election manifesto.[288] She said the government would legislate "at the earliest

281 HMICFRS, The police response to stalking, 27 September 2024, recommendations 1 and 3

282 HC Deb 3 December 2024 c182

283 Women's Aid, Women's Aid respond to the stalking protections announced by Home Office, 3 December 2024

284 ITV News, Stalking victims to be given more protection under new measures, 3 December 2024

285 GOV.UK, Responses to the super-complaint report on the police response to stalking, 8 January 2025

286 GOV.UK, Letter from the Minister for Safeguarding with the government response to stalking super-complaint, 8 January 2025

287 As above

288 Labour Party, Change: Labour Party Manifesto 2024 (PDF), p68

opportunity to enable the courts to issue an SPO on conviction or acquittal".[289]

However, she said that "more consideration" was required regarding the remaining areas of recommendation 3, and that she had therefore asked Home Office officials to "conduct a deep dive on SPOs to explore each recommended change alongside whether other measures are needed to strengthen SPOs in line with our manifesto commitment".[290]

7.2 The bill

Clause 69 would amend the Stalking Protection Act 2019 to allow the criminal courts to impose an SPO on a defendant who has been acquitted of any offence, or who has successfully appealed against a conviction for any offence. There would be no requirement for the acquittal or appeal to have involved an offence of stalking.

Clause 70 would amend the Sentencing Act 2020 to make equivalent provision allowing the criminal courts to impose an SPO on an offender who has been convicted of any offence.

Clause 71 would add a new section 7A to the Protection from Harassment Act 1997, which would enable the Secretary of State to issue statutory guidance about stalking offences, SPOs or any other matters relating to stalking. The Secretary of State would be required to consult "any person" they consider appropriate before issuing (or revising) any such guidance, but clause 71 does not specify any specific organisations or bodies that should be involved.

Clause 72 would add a new section 12A to the Stalking Protection Act 2019, which would enable the Secretary of State to issue guidance to the police about the disclosure of police information for the purpose of protecting persons from risks associated with stalking. The explanatory notes state that this guidance would be able to "deal with the disclosure to victims of stalking the identity of online stalkers".[291] This was not a recommendation of the super-complaint report but would fulfil one of Labour's manifesto commitments.[292]

289 GOV.UK, Letter from the Minister for Safeguarding with the government response to stalking super-complaint, 8 January 2025

290 GOV.UK, Letter from the Minister for Safeguarding with the government response to stalking super-complaint, 8 January 2025

291 Explanatory Notes (PDF), para 631

292 Labour Party, Change: Labour Party Manifesto 2024 (PDF), p68

8 Protections of persons

This bill includes several measures aimed at protecting people from harm. In summary:

- Clause 73 would establish a single new offence of administering a harmful substance, including by spiking.
- Clauses 74 and 75 would introduce a new offence of encouraging or assisting serious self-harm.
- Clause 76 would extend the offence of child abduction to cover cases where a parent detains the child outside the UK without the appropriate consent.
- Clause 77 would bring supervised roles back within the scope of regulated activity, allowing access to the highest level of DBS check

8.1 Spiking

Background

The nature and prevalence of spiking

Spiking refers to the practice of administering a substance to a person without their knowledge or consent. It can be perpetrated in two main ways:

- drink spiking, which involves adding alcohol or drugs to a person's drink with the intention of intoxicating them; and
- needle spiking, which involves injecting a person with drugs or other substances.

Drink spiking has been a well-known issue for many years. However, needle spiking is a more recent development, with the issue first attracting media attention in October 2021.[293]

[293] See for example "Nottinghamshire Police investigate 15 reports of needle spiking", BBC News, 21 October 2021

The government has provided details of the number of police reports of spiking:

> Between May 2022 and April 2023, the police received 6,732 reports of spiking, which included 957 needle spiking reports. On average, the police receive 561 reports a month, with the majority coming from females who believe their drink has been spiked – though spiking can affect anyone.[294]

However, it has noted the difficulties in collecting substantive data on the issue:

> There is, however, no overall substantive national data which confirms the prevalence of spiking. The Ministry of Justice collates data on specific offences but only records the principal (i.e. the key) offence under which a defendant is convicted and sentenced. Given the broad nature of the existing offences that criminalise spiking behaviour, we do not have substantive national data on the charges, prosecutions and convictions for spiking. Whilst the police collect data on the number of spiking incidents reported to them, and campaign groups undertake their own surveys, it is difficult to draw any conclusions on the prevalence and subsequent prosecution of spiking.[295]

New sub-categories of police offence codes are therefore due to be introduced in spring 2025, which the government says will allow police forces in England and Wales "to better identify and record the type of spiking incident, i.e. whether spiking has occurred by putting drugs (prescription or illegal) into someone's drink without their knowledge or by injecting the person with drugs etc".[296]

The existing criminal law

There is no single offence that covers spiking. Instead, a range of more general offences can potentially be used to prosecute perpetrators.

Depending on the circumstances, the following offences could apply to both drink spiking and needle spiking:

- Administering a substance with intent (Sexual Offences Act 2003, section 61): this offence is committed where a person intentionally administers a substance to, or causes a substance to be taken by, another person (B), knowing that B does not consent and with the intention of stupefying or overpowering B so as to enable any person to engage in a sexual activity involving B.[297]

- Administering stupefying or overpowering drugs, or administering poison or other destructive or noxious thing (Offences Against the Person Act 1861, sections 22, 23 and 24): these offences are committed where a

[294] Home Office/Ministry of Justice, Crime and Policing Bill: Spiking factsheet (MoJ), 25 February 2025

[295] Home Office/Ministry of Justice, Crime and Policing Bill: Spiking factsheet (MoJ), 25 February 2025

[296] As above

[297] The Explanatory Notes to section 61 state that this offence is "intended to cover use of so-called "date rape drugs" administered without the victim's knowledge or consent, but it would also cover the use of any other substance (for example, alcohol) with the relevant intention.

person administers stupefying or overpowering drugs (section 22) or "any poison or other destructive or noxious thing" (sections 23 and 24) to another person, with the intention of committing a further offence (section 22), with the effect of endangering the other person's life or inflicting grievous bodily harm upon them (section 23), or with the intention to injure, aggrieve or annoy the other person (section 24).

For needle spiking only, injecting someone without their consent could also constitute an assault or other offence against the person, depending on the physical harm caused to the victim.[298]

Calls for a specific offence

There have been calls to introduce a specific offence of spiking, or to amend the existing law to include specific reference to spiking.

For example, in a report on spiking, published in April 2022, the Home Affairs Committee called on the Home Office to provide a written update on progress towards creating a separate criminal offence of spiking within six months of the date of its report.[299] It considered that the introduction of a specific offence would not stop spiking, but would have several benefits, including enabling better data collection by police, acting as a deterrent to perpetrators, and encouraging more victims to report spiking.

During a January 2023 Westminster Hall debate on preventing spiking incidents, a number of Members called for changes to the law to either introduce a new offence or to clarifying the application of existing offences to spiking incidents.[300]

There were similar calls during a Backbench Business Committee debate on spiking in December 2023. Opening the debate, Judith Cummins MP (Labour) said the lack of a specific offence caused difficulties in understanding, prosecuting and preventing spiking.[301]

Action by the Conservative government

In its December 2022 response to the Home Affairs Committee, the Conservative government said it had "concluded that there is no gap in the existing law that a new spiking offence would fill" and it would not, therefore, be introducing a new offence.[302]

However, in a report published in December 2023 (under section 71 of the Police, Crime, Sentencing and Courts Act 2022, which required the

298 Examples include wounding or causing grievous bodily harm (Offences Against the Person Act 1861, section 18 and section 20); assault occasioning actual bodily harm (Offences Against the Person Act 1861, section 47); or common assault and battery.

299 Home Affairs Committee, Spiking, HC 967, 26 April 2022

300 HC Deb 11 January 2023 c259WH. For further background see the Commons Library debate pack. Prevention of spiking incidents, 10 January 2023

301 HC Deb 14 December 2023 c375WH

302 Letter from Sarah Dines MP to Dame Diana Johnson MP, 20 December 2022

Government to publish a wider report on the nature and prevalence of spiking), the then victims and safeguarding minister Laura Farris said the government had reconsidered its position and now believed there was "a strong case for amending the law to delineate the nature and threat of spiking".[303]

Laura Farris said the government intended to table amendments to the Criminal Justice Bill 2023-24 to legislate on spiking.[304] The amendments were duly tabled and agreed at committee stage.[305] However, the bill fell due to the 2024 election and the amendments did not reach the statute book.

The Labour government's position

In Opposition, Labour had supported calls to legislate on spiking and had welcomed the Conservative government's amendments to the Criminal Justice Bill 2023-24.

The Labour manifesto for the 2024 general election included a pledge to "introduce a new criminal offence for spiking to help police better respond to this crime".[306] Following the election, Labour reiterated its plan to legislate on the issue.[307]

In November 2024, the government announced further details of its plans to tackle spiking.[308] The announcement confirmed that a new criminal offence would be introduced, alongside "coordinated action across the police, transport network and venues". Training for staff working in the nighttime economy on how to spot and tackle spiking would be piloted from December 2024 and rolled out to "up to 10,000 bar staff across the country" by spring 2025.

The bill

Clause 73 would repeal sections 22, 23 and 25 of the Offences Against the Person Act and section 24 with a single new offence of administering a harmful substance (including by spiking). The new section 24 offence would be committed where a person:

- unlawfully administers a harmful substance (defined as "any poison or other destructive or noxious thing") to, or causes a harmful substance to be administered to or taken by, another person, and
- does so with intent to injure, aggrieve or annoy the other person

303 Home Office, Report: Understanding and tackling spiking, December 2023
304 HC Deb 18 December 2023 c1159
305 See section 2.3 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill for full background
306 Labour Party, Change: Labour Party Manifesto 2024 (PDF), p68
307 HM Government, King's Speech 2024: background briefing notes, 17 July 2024, p57
308 Gov.uk, PM pledges joint action to keep women and girls safe at night, 24 November 2024

The new offence is intended to "continue to criminalise broadly the same spiking and non-spiking behaviour that is currently criminalised under sections 23 and 24 of the OAPA 1861" and the reference to "spiking" in the heading of the offence is intended to "increase public awareness that spiking behaviour is illegal".[309]

The new offence would be triable 'either way', meaning it could be tried in either a magistrates' court or the Crown court. The maximum penalty in the Crown court would be ten years' imprisonment and/or a fine.

The new section 24 offence would extend to England, Wales and Northern Ireland.

The charity Stamp Out Spiking, which has been calling for a specific spiking offence for several years, has described the proposed new offence as "groundbreaking" and "a rallying call to empower victims to report offences".[310] However, it has also noted that the new offence is "only part of the solution" and that collaboration between law enforcement, transport networks, venues and organisations such as Stamp Out Spiking is "key to creating safer spaces and restoring confidence in our streets and nightlife".[311]

8.2 Encouraging or assisting serious self-harm

Clauses 74 and 75 would introduce a new offence of encouraging or assisting serious self-harm. These replicate measures that were included in the Conservative government's Criminal Justice Bill 2023-24, which fell due to the 2024 general election.[312]

Background

Section 184 of the Online Safety Act 2023 introduced a new offence of encouraging or assisting the serious self-harm of another person by means of verbal, written or electronic communications.[313] The new offence was based on a recommendation by the Law Commission that the deliberate encouragement or assistance of serious self-harm should be criminalised, following the model of the offence of encouraging or assisting another to commit (or attempt to commit) suicide under the Suicide Act 1961.[314] The Law Commission stressed the importance of defining any new offence in a narrow

309 Explanatory Notes (PDF), paras 633 and 635

310 Stamp Out Spiking, A Landmark Week for Stamp Out Spiking: Standing Together Against Spiking, 2 December 2024

311 As above

312 See section 2.4 of the Library briefing Criminal Justice Bill 2023-24 and section 2.2 of the Library briefing Criminal Justice Bill 2023-24: Progress of the Bill

313 See section 11 of the Library briefing Analysis of the Online Safety Bill, 11 October 2022 and sections 4.5 and 9.19 of the Library briefing Online Safety Bill: progress of the Bill, 31 October 2023 for background.

314 Law Commission, Modernising Communications Offences: A final report (PDF), 2021, Chapter 7

way that would avoid criminalising vulnerable people who post self-harm content online.

Given the scope of the Online Safety Act 2023, the section 184 offence was drafted in such a way that it only covered encouragement or assistance that took the form of a communication (whether verbal, written or electronic). The government is now proposing to give full effect to the Law Commission's recommendation by repealing section 184 of the 2003 act and replacing it with a broader version of the offence that captures other forms of encouragement or assistance, for example "direct assistance, such as giving a person a blade with which to self-harm".[315]

The bill

Clauses 74 and 75 would repeal the section 184 offence (in so far as it extends to England, Wales and Northern Ireland) and replace it with a broader offence covering "any act capable of encouraging or assisting the serious self-harm of another person," where that act is intended to encourage or assist such serious self-harm.

Unlike section 184, the new offence would not be limited to communications-based forms of encouragement or assistance. In all other substantive respects, including the definition of "serious self-harm" and the requirement for intent, the scope of the new offence would be the same as the section 184 offence.[316]

The new wider offence would extend to England, Wales and Northern Ireland, but not to Scotland (which would continue to use the existing section 184 offence). When Parliament was considering the previous iteration of these measures in the Criminal Justice Bill 2023-24, the then victims and safeguarding minister Laura Farris explained that this decision had been taken by Scottish ministers:

> On Scotland, the offence relates to devolved matters, but Scottish Ministers have decided that the broader offence should not extend to their jurisdiction. They are sticking with section 184 of the Online Safety Act for now. That is why the amendment does not extend the offence to Scotland.[317]

315 Explanatory Notes (PDF), para 645

316 As is the case under section 184, "serious self-harm" would be defined as self-harm amount to grievous bodily harm within the meaning of the Offences Against the Person Act 1861.

317 PBC Deb 11 January 2024 cc162-163

8.3 Child abduction

Background

Taking a child overseas without "appropriate consent"

Under section 1 of the Child Abduction Act 1984 it is an offence for a parent (or person with similar responsibility, such as a special guardian) of a child aged under 16 to take or send that child out of the UK "without the appropriate consent".

"Appropriate consent" means the consent of a child's mother and, if he has parental responsibility for the child, the child's father.[318] Appropriate consent can also be provided through the leave of the court granted under any provision of Part II of the Children Act 1989 (for example, a specific issue order), or (if any person has custody of the child) the leave of the court that awarded custody.

There are several exceptions to the section 1 offence, including if a parent takes the child out of the country in the belief that the other parent has consented, where the other parent cannot be contacted, or where the other parent has unreasonably refused to consent.[319]

Separately, under section 2 of the Child Abduction Act 1984 it is an offence for "other persons" who are not connected to the child (and so who are not covered by the section 1 offence) to take or detain a child from the person who has "lawful control" of them, or to keep them out of the person's lawful control.

The Nicolaou case

A 2012 judicial review case identified a possible gap in the section 1 offence in circumstances where a parent takes or sends a child out of the UK with appropriate consent but then fails to return them.[320]

The case involved Nicholas Nicolaou, who in 2007 had arranged for his son to travel from the UK to visit him in Cyprus for a specified period in accordance with the terms of a court order. However, he then failed to return his son to the UK when the permitted period had expired.

After family court proceedings failed to resolve the case, a warrant was subsequently issued for Nicolaou's arrest. Nicolaou successfully brought judicial review proceedings to challenge the warrant. He argued that he had not committed an offence under section 1 as his son "was taken out of the

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318 If relevant, appropriate consent also includes the consent of guardians, special guardians, a person named in a child arrangements order as a person with whom the child is to live, or a person who has custody of the child.

319 Subsection 1(5) of the 1984 act

320 *R (on the application of Nicolaou v Redbridge Magistrates' Court* [2012] EWHC 1647 (Admin)

United Kingdom with the appropriate consent, and the section does not bite on the failure to return him thereafter".[321]

The High Court agreed, ruling that the section 1 offence only covers "the act of removal of the child from the country" and that "what matters is whether the appropriate consent exists at the point when the child leaves the country".[322]

The High Court noted that unlike the section 2 offence, the section 1 offence did not include any reference to "detaining" the child:

> Had the draftsman intended section 1(1) to apply to a situation where the initial removal was done with consent but the child was subsequently kept out of the country after the period of consent had expired, I would have expected the use of similar language in section 1 as is found in section 2, or at least a clear signal that "take out" was intended in the context of section 1 to have an enlarged scope.[323]

The section 2 offence, however, could not be used against Nicolaou as it only applies to people without a "connection" to the child, not to parents.

The High Court therefore allowed Nicolaou's application for judicial review.

The Law Commission report

In 2014 the Law Commission published a report on the law relating to kidnapping and related offences.[324] Among other things, this recommended extending the section 1 offence to cover cases of wrongful retention of a child abroad, in breach of the permission given by another parent (or other connected person) or the court.

The bill

Clause 76 would implement the Law Commission's recommendation. It would extend the offence in section 1 of the 1984 act to cover cases where a parent (or person with similar responsibility) takes or sends a child under 16 out of the UK with the appropriate consent, but then detains the child outside the UK without the appropriate consent.

The new 'detaining' offence would only apply to cases where the taking or sending of the child out of the UK takes place on or after the date on which clause 76 comes into force. The amended version of section 1 would apply in England and Wales.

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321 *R (on the application of Nicolaou v Redbridge Magistrates' Court* [2012] EWHC 1647 (Admin) at 9

322 As above, at 17

323 As above, at 19

324 Law Commission, Simplification of Criminal Law: Kidnapping and Related Offences, Law Com No 355, November 2014

8.4 Regulated activity

Clause 77 would implement recommendations by the Independent Inquiry into Child Sexual Abuse (the IICSA) and an Independent Review of the Disclosure and Barring Scheme to widen access to the children's 'barred list' maintained by the Disclosure and Barring Service (DBS).[325]

Background

The DBS barred list

Section 2 of the Safeguarding Vulnerable Groups Act 2006 requires the DBS to maintain a 'barred list' of people who are barred from undertaking "regulated activity relating to children". If a person applies for a role (paid or unpaid) involving regulated activity with children, the recruiting body can apply to the DBS for the highest level of criminal records check (an 'enhanced with barred list' check) to check if the person has been barred.[326]

It is an offence for a person on the barred list to engage in (or to seek or offer to engage in) regulated activity from which they are barred.[327] It is also an offence for a person to use a barred person for regulated activity, or for a personnel supplier to supply such an individual.[328]

The definition of "regulated activity relating to children"

The definition of "regulated activity relating to children" is set out in schedule 4 to the 2006 act. In broad terms, it covers certain roles that involve close contact with children (such as teaching or training children or providing healthcare), or roles in specific places (such as schools or children's homes). In some cases an additional 'period condition' applies, where an activity will only be regulated if it is done on more than 3 days in a 30-day period, or once overnight between 2am and 6am.[329]

The 'supervision exemption'

In 2012, the definition of regulated activity in schedule 4 to the 2006 act was amended to exempt the following roles if they are subject to "day to day supervision" by another person who is engaging in regulated activity relating to children:

- teaching, training or instruction of children

325 See section 2.2 of this briefing for further background on the IICSA.

326 See DBS, About us [accessed 4 March 2025] for an overview of the different levels of check.

327 Safeguarding Vulnerable Groups Act 2006, s7

328 Safeguarding Vulnerable Groups Act 2006, s9

329 Full details of what is classed as "regulated activity" is set out in the DBS guidance Regulated activity with children in England and Wales, 21 February 2025.

- care for or supervision of children (other than personal care or healthcare)

- unpaid work within any of the establishments listed in paragraph 3(1) of schedule 4 (including schools, children's homes or childcare premises)[330]

Schedule 4 provides that "day to day supervision" means "such day to day supervision as is reasonable in all the circumstances for the purpose of protecting any children concerned".

Statutory guidance issued by the Department for Education in 2012 sets out some of the factors that regulated activity providers should consider when assessing whether an activity that would otherwise be regulated is subject to an appropriate degree of supervision (and is therefore not regulated).[331] It includes several examples of how "day to day supervision" might take a role outside the scope of regulated activity, including the following:

> Mr Jones, a new volunteer, helps children with reading at a local school for two mornings a week. Mr Jones is generally based in the classroom, in sight of the teacher. Sometimes Mr Jones takes some of the children to a separate room to listen to them reading, where Mr Jones is supervised by a paid classroom assistant, who is in that room most of the time. The teacher and classroom assistant are in regulated activity. The head teacher decides whether their supervision is such that Mr Jones is not in regulated activity.[332]

If person's role falls outside the scope of regulated activity because they are subject to "day to day supervision", the organisation they are working or volunteering with has no entitlement to request an 'enhanced with barred list' check for them. They can only request an enhanced DBS check, which will not show if the person is on the barred list.

Recommendations to remove the 'supervision exemption'

Having reviewed the DBS scheme, the IICSA's 2022 report recommended (among other things) that the supervision exemption should be removed, thereby bringing supervised roles back within the scope of regulated activity and allowing organisations to request an 'enhanced with barred list' DBS check. It considered that the supervision exemption placed children at risk:

> Where the DBS has determined that an individual poses a risk of harm to children such that they should be barred from regulated activity, this information ought to be available to any organisation or individual considering whether to engage the person in any paid or unpaid role working with children, whether supervised or not. The current disclosure regime permits those who have been assessed as so dangerous that they have been barred from

330 These changes were made by the Protection of Freedoms Act 2012, as part of wider criminal records reforms the then government described as a return to "common sense levels" of regulation: see Home Office, Fact sheet: safeguarding of vulnerable groups, criminal records, part 5, October 2011

331 Department for Education, Statutory guidance: Regulated Activity (children) - supervision of activity with children which is regulated activity when unsupervised (PDF), 2012

332 Department for Education, Statutory guidance: Regulated Activity (children) - supervision of activity with children which is regulated activity when unsupervised (PDF), 2012, p2

> regulated activity to nevertheless come into contact with children in roles that do not meet the definition of regulated activity. This places children at risk.[333]

In 2023, the Independent Review of the Disclosure and Barring Scheme, commissioned by the Home Office and conducted by Simon Bailey (then the National Police Chiefs' Council lead for child protection and abuse investigation), reached a similar conclusion:

> It appears to me that the approach adopted in 2012, so far as it related to excluding 'supervised' roles, focused on potential abuse occurring in the workplace. Whether or not that approach was correct in the context of that time, it is clear to me that it cannot be correct now. Supervision of individuals having close contact with children cannot prevent those who are so inclined using the opportunity that contact provides to establish relationships which they can then exploit outside the workplace. In my judgment, it is essential that those who are making decisions about the suitability of individuals to work with children, supervised or unsupervised, should have access to the barred list.[334]

Government action

In its formal response to the IICSA report, the Conservative government said it accepted the IICSA's recommendation to remove the supervision exemption, "subject to further assessment of feasibility and impact, taking into account the findings of the Bailey Review of Disclosure and Barring Regime".[335] However, it had not introduced any detailed proposals on this issue by the time of the 2024 general election.

In a statement on 16 January 2025, the Home Secretary Yvette Cooper said the Home Office had accepted the IICSA's recommendations on disclosure and barring and that work was under way to legislate.[336]

The bill

Clause 77 would amend schedule 4 to the Safeguarding Vulnerable Groups Act 2006 to remove the 'supervision exemption' from the definition of regulated activity relating to children.

This change would bring supervised roles back within the scope of regulated activity, which would have the following implications:

- organisations would be able to access 'enhanced with barred list' DBS checks for such roles (the highest level of check)
- the roles would be within the scope of the existing offences committed when a person on the barred list engages in (or seeks or offers to engage in) regulated activity from which they are barred, or when a person uses

333 IICSA, The Report of the Independent Inquiry into Child Sexual Abuse, HC 720, October 2022, p196
334 Simon Bailey, The Independent Review of the Disclosure and Barring Regime, February 2023, p18
335 Home Office, Government response to the final report of the Independent Inquiry into Child Sexual Abuse, May 2023
336 HC Deb 16 January 2025 c560 and c566

(or a personnel supplier supplies) such an individual for a regulated activity role[337]

- the roles would be within the scope of the proposed new mandatory duty to report set out in clauses 45 to 54 of the bill[338]

A government factsheet on clause 77 notes that the change would not affect parents who "help out occasionally in school", as such activity would continue to only be regulated if it is done on more than 3 days in a 30-day period, or once overnight between 2am and 6am.[339]

337 Safeguarding Vulnerable Groups Act 2006, ss7 and 9

338 See section 6.4 of this briefing

339 Home Office/Ministry of Justice, Crime and Policing Bill: Independent Inquiry into Child Sexual Abuse recommendations, 25 February 2025

9 Management of offenders

The bill includes measures that would change how people who have committed certain offences will be managed in the community. In summary:

- Clauses 59 to 68 and schedule 9 would make new provisions for the management of registered sex offenders.
- Clause 104 would expand the use of polygraph testing for people convicted of a wider range of offences.
- Clause 105 would require anyone serving a community sentence to inform their responsible officer if they change their name, use a different name or change their contact information.

9.1 Sex offender notification requirements 'the sex offenders register'

Clauses 59 to 68 and schedule 9 would make new provisions for the management of registered sex offenders.

Background

Notification requirements are an automatic consequence of a conviction or a caution for a schedule 3 offence under part 2 the Sexual Offences Act 2003. The principle of notification was introduced in 1997 but has expanded and increased the range of information that must be supplied to the police.[340]

Currently people are required to notify the police of personal information such as their name, address and bank and credit card details, and to update the police whenever this information changes. The police record of this information is commonly referred to as the 'sex offenders register'. The requirements in the bill aim to strengthen existing notification requirements to enable the police to manage sex offenders effectively in the community.

In 2023, the independent review of police-led sex offender management carried out by Mick Creedon was published.[341] The Creedon review

[340] For more detail see Library briefing Registration and Management of Sex Offenders, 11 January 2023
[341] Home Office, Independent review of police-led sex offender management, 27 April 2023

recommended that notification requirements should be reviewed to see whether current details were fit for purpose and to consider adding details such as email addresses and phone numbers.

The review also raised concerns about the potential numbers of people on the register, and noted that due to online offending, sentence lengths, new offences and more awareness meaning more victims are coming forward, the number of people on the sex offenders register is expected to increase. In the foreword to the report, Mick Creedon stated:

> If change is not made, it is clear to me that the volume and complexity will overwhelm, with the inevitable consequence that the ability to manage and control the most dangerous will be compromised, putting the public at risk of future serious victimisation.[342]

The latest multi-agency public protection arrangements (MAPPA) annual report showed that on 31 March 2024, there were 70,052 registered sex offenders in the community in England and Wales.[343] This is a 2% increase from 2023 and a 52% increase from 2014.

The number of people who were on the sex offenders register and were cautioned or convicted for breaches of their notification requirements was 2375 in the year ending March 2024, which is around 3.4% of people on the register.

Reviewing indefinite notification requirements

Currently, anyone sentenced to 30 months or longer in prison for a sex offence will be required to be on the sex offenders register indefinitely. Adults sentenced to between six months and 30 months in prison are required to be on the register for 10 years and adults sentenced to under six months are required to be on the register for seven years. The periods are halved for children.

Since September 2012, a mechanism has been in place that allows qualifying offenders subject to notification requirements for life to apply for a review.[344] People can apply after 15 years on the register (eight years for someone who was a child at the time of the offence), and the police will assess the application. Between April 2023 and March 2024, 357 people on the sex offenders register had their lifetime notification requirements revoked on application, compared to 412 in 2022/23.[345]

The Creedon review noted that a significant proportion of people on the sex offenders register were subject to indefinite notification requirements and

342 Home Office, Independent review of police-led sex offender management, 27 April 2023
343 Ministry of Justice Multi Agency Public Protection Arrangements Annual Report 2023/24 (PDF) page 1
344 Home Office Guidance on review of indefinite notification requirements (PDF) 31 July 2012
345 Ministry of Justice in Multi Agency Public Protection Arrangements Annual Report 2023/24 (PDF)

suggested that it would be more effective if 'scarce and specialist resources are deployed to manage risk rather than process compliance'. [346]

It also recommended reducing the period to review notification requirements from 15 years to 10 years (which at that time aligned with the period that people subject to imprisonment for public protection can have supervision lifted, although this has now been reduced further).[347] Further recommendations were that cases with indefinite notifications requirements in place for 15 years or more should be reviewed and legislation be introduced to enable police to proactively consider and remove indefinite requirements where justified, without applications from individuals.

The provisions in clauses 64 and 65 of the bill are a response to the Creedon review recommendations and will give the police the power to review the notification requirements for people who have been on the register for the qualifying period.

Sex offenders and name changes

Following media reporting and a Safeguarding Alliance campaign relating to concerns about sex offenders being able to change their name to facilitate reoffending, secondary legislation was passed in August 2022 requiring people released from prison to inform their probation officer or (if a child) Youth Offending Team if they change their name or contact details.[348] The Criminal Justice (Sentencing) (Licence Conditions) (Amendment) (No.2) Order 2022) applies to everybody released from prison, not just those on the sex offenders register.

The Home Office carried out an internal review in 2022 to understand the nature of offenders, including registered sex offenders, changing their name and whether this was linked to further offending, but the previous government confirmed that the findings of this would not be published.[349]

The Home Office already has a process where it can refuse to issue documents to a convicted sex offender in a new name. The use and change of names guidance, updated in October 2024, sets out the Home Office's approach to a request for a change of name on official documents, such as the British passport, Home Office Travel Documents and biometric residence permits. It explains that it reserves the right not to issue documents in a new name to people convicted of using false documents or to registered sex offenders. The bill would extend this process to driving licences and says that other documents could also be added to the notice preventing people from applying for new identity documents in a new name.

The Lucy Faithfull Foundation, a charity that supports and advises people concerned about sexual abuse and works with individuals to support prevent

346 Home Office, Independent review of police-led sex offender management, 27 April 2023
347 Parole Board, IPP Licence Termination Board Member Guidance (PDF) 2022
348 For more detail see Safeguarding Alliance campaign page on sex offender name change
349 PQ 129140, violent and sex offender register, 24 February 2022

reoffending, points out that changing a name can be part of the process of desistance.[350] It notes that people on the sex offenders register are often highly stigmatised and in some circumstances are vilified in their local community and may want to consider changing their names as one way to help move on from their past behaviour. It also notes that there is a high level of compliance with notification requirements in the UK. However, it does not object to people being required to notify a change in name.[351]

The government's European Convention on Human Rights (ECHR) Memorandum for the bill explains that the bill has a retrospective application as people will be required to notify having been convicted of a relevant offence in the past.[352] The government says it has considered whether the new requirements impose a penalty heavier than any penalty which existed at the time of their conviction and has concluded that Article 7 is not contravened.

The requirement to provide additional information in advance and to request permission to change a name on official documentation do interfere with the Article 8 rights to private and family life. The government believes that the interference is justified and proportionate as the current situation of notification after the fact impairs the police's ability to manage risk effectively.

Also, the government considers the permission to change a name on official documentation and its interference with Article 8 rights justified. Police will only issue a notice preventing this if they are satisfied that it is necessary, because the purpose of requesting the name change on documents is to facilitate further offending. There are specified conditions where the police may grant authorisation to apply for replacement identity documents in a new name, such as marriage, civil partnership, divorce, religious reasons or exceptional circumstances. Regulations made by the Secretary of State will also specify other conditions. If someone can provide evidence satisfying one of the conditions, the police will provide authorisation to change the name, unless there is need to protect the public from the risk of sexual harm.

The bill

Clauses 59 to 68 and schedule 9 would make new provisions for the management of registered sex offenders.

Clauses 59 to 66 would change the provisions in the Sexual Offences Act 2003 about notification requirements for registered sex offenders.

Clause 59 would change the notification periods for someone on the sex offenders register who wanted to change their name. Section 84 of the Sexual Offences Act 2003 specifically deals with changes to details that must be

350 Lucy Faithful Foundation webpage, undated [accessed 5 March 2025]

351 Lucy Faithful Foundation, 'Should registered sex offenders be allowed to change their name?,' 1 March 2023

352 Crime and Policing Bill - ECHR Memorandum (PDF), pp.37-40

registered, including names. Breach of a notification requirement can result in a penalty of up to five years' imprisonment. The new section 83A would give specific notice periods for informing the police about using a new name (usually seven days prior to beginning to use the name, unless this is not practical).

Clause 60 would change the prior notification period for someone who planned to be absent from their sole or main residence. People on the register who have no sole or main residence must notify the police every seven days and this would remain unchanged. Clause 60 introduces new sections that would mean people whose sole residence is in England, Wales, or Scotland must notify periods of absence that exceed the 'qualifying period' at least 12 hours before leaving their main residence. The current qualifying period is seven consecutive days, or seven accumulated days or more in a year away from home. New sections would change this period to five days but give ministers the power to increase this period by regulation.

Clause 61 would change the requirement for child sex offenders to notify if entering premises where a child is present, meaning they must give the police at least 12 hours' notice. The current requirement is within three days of being in the household. This would apply to people on the register who had offended against children and also to people given a notice from the police under section 86 of the Sexual Offences Act 2003.

Clause 62 would enable chief constables in Scotland and Northern Ireland to decide which police stations someone could attend for notification purposes. In the 2003 act this power sits with ministers.

Clause 63 would give senior police officers (inspectors and higher ranks) the power to authorise virtual notification arrangements, (that is, not needing to physically present at a police station) subject to risk assessment. This could be cancelled at any time and in-person reporting could be reinstated.

Clauses 64 and 65 would change the process of reviewing whether someone must stay on the sex offenders register indefinitely. Currently people can apply after 15 years on the register (or if a child at the time of the offence, after eight years). The review is carried out by the police who decide whether it is necessary for someone to continue with notification requirements. This clause would enable chief police officers to carry out this review without an application from the person on the sex offenders register. The review periods would remain the same and the police would access information from other relevant agencies (for instance the probation and prison services) for the review. People on the register would have the right to make representations and to appeal a decision. This would apply to England, Wales and Northern Ireland.

Clause 66 would apply to all of the UK and introduces a new process whereby certain people on the sex offenders register will have to apply for permission to access a new identity document in a new name. This applies to passports, immigration documents and driving licenses and other documents can be added. The new process would be that people must make a written

application for a new name or a new identity document and chief officers may only grant authorisation if certain conditions are met (set out in new section 93C(6-7), which the bill would insert into the Sexual Offences Act 2003).

The first condition is that the chief officer is satisfied that the new name is for marriage, civil partnership or religious reasons. It can also be authorised if other conditions are met or there are exceptional reasons. The second condition is that the chief officer assesses that accepting the application will not impact on protecting the public or create a risk. New guidance is expected on this process.

Chief officers will be able to issue a 'section 93A' (93E for children) notice that prevents someone being able to apply for passport, immigration identity document or a driving licence in a new name. Other identity documents can be added to the notice.

Authorisation will last for a year, be subject to annual review and can be cancelled if the police consider the risk has increased. Parents can apply for new identity documents on behalf of a child under 18. The review decision will be notified in writing and there will be an appeal process.

Clause 67 would amend the 2003 act – which requires a warrant for entry and search of a relevant offender's home (a registered sex offender) to be made by a senior officer – and changes it to approval by an appropriate officer, of at least inspector rank.

Clause 68 introduces schedule 9 which would make technical changes to part 2 of the Sexual Offences Act 2003. It also clarifies in section 6(6) that the relevant police area for a registered sex offender is the home address area, the last known home address area or for people with no home address, the court area where someone received their last conviction.

9.2 Extension of polygraph conditions

Clause 104 would expand the use of polygraph testing for people convicted of a wider range of offences.

Background

Polygraphs measure the physiological changes in the body (heart rate, blood pressure, respiratory rates, sweat) when someone is asked questions. Changes to the normal rates can indicate that someone is being deceptive.

Most people released from prison in England and Wales are released on licence into the community, meaning they are supervised by the probation service and are required to comply with certain conditions. The law currently allows for certain adult offenders (sex offenders, specified terrorist offenders and certain domestic abuse offenders with a prison sentence of a year or

more) to have a condition included in their licence requiring them to undergo polygraph testing.

The use of polygraph testing was introduced in 2014, following a pilot, for people convicted of certain sexual offences. Its use was extended to certain terrorist offenders by the Counter Terrorism and Sentencing Act 2021 (CTSA 2001) and to certain domestic abuse offenders under a pilot scheme which began in 2021 using provisions in the Domestic Abuse Act 2021.

There is currently no provision to allow for a polygraph condition for:

- an offender convicted of murder
- an offender serving concurrent sentences for a relevant sexual offence and a non-sexual offence, where the sentence for the sexual offence ends before the sentence for the non-sexual offence.

The government considers that the ability to impose a polygraph condition should be extended to cover these two situations. The government also wants to address a "gap" in the polygraph testing regime regarding non-terrorist offences with a terrorist connection.

CTSA 2021 allows for any non-terrorist offence, punishable with over two years' imprisonment (committed after the coming into force of the relevant provision of the 2021 Act) to be found to have a terrorist connection.[353] The government wishes to extend polygraph conditions to those who were convicted of any non-terrorist offence, committed before the relevant provisions of the 2008 or 2021 acts came into force where the offence is considered to have had a terrorist connection.

CTSA 2021 has not yet been commenced for service offenders (people convicted through the military justice system). Subsection (4BC), which clause 104 would insert into the Offender Management Act 2007, would enable polygraph testing to apply to service offenders who commit the equivalent of a terrorist offence, punishable with over two years' imprisonment (committed after the coming into force of the relevant provision of CTSA 2021) if found to have a terrorist connection.

The ECHR Memorandum states that while certain ECHR rights are engaged by this clause, it does not breach any of these rights. It says Article 5 (liberty and security) is not breached as any detention following a recall to prison in connection with a polygraph test will be in accordance with the sentence of imprisonment as set by the court. Article 6 (fair trial) includes a right not to incriminate oneself. The government says that safeguards against an unlawful interference with Article 6 are built into the existing legislation and accompanying policies. The government says that Article 7 (no punishment without law) is not breached because polygraph conditions are licence

[353] Section 1 Counter Terrorism and Sentencing Act

conditions that are part of the enforcement of the sentence handed down by the court and are not a new or additional penalty.

The bill

Clause 104 would amend section 28 of the Offender Management Act 2007 to allow for a polygraph condition to be imposed in the following circumstances, where the person is aged 18 years or over on the day of release:

- where the Secretary of State considers an offender convicted of murder poses a risk of committing a relevant sexual offence on release on licence
- where an offender is serving a relevant custodial sentence in respect of an offence who, at any earlier time during that sentence, was also serving a relevant custodial sentence for a relevant sexual offence.

Clause 104 would also extend the use of polygraph conditions for terrorist offenders.

9.3 Duty of offender to notify contact details

Clause 105 would require anyone serving a community sentence to inform their responsible officer if they change their name, use a different name or change their contact information.

Background

These provisions bring people on community supervision and children on referral orders in line with the provisions for people leaving prison. In 2022, secondary legislation, the Criminal Justice (Sentencing) (Licence Conditions) (Amendment) (No.2) Order 2022 was passed requiring people released from prison on licence to inform their probation or Youth Offending Team officer if they change their name or contact details.

The government believes that this secondary legislation covering offenders on licence created an inconsistency for offenders serving a sentence in the community, who would become subject to the same requirements under this bill. Under this bill anyone under any form of community supervision following a conviction will be required to let their supervising officer know if they change their name or contact details.

This includes names used online. The bill creates a requirement for children and adults to tell their responsible officer if they use a name other than the

one on the referral order and the explanatory notes gives the example of a name used for online gaming.[354]

The decision to breach someone for failure to notify a name or new contact details will rest with the supervising officer. If the offender is breached, the court will assess how far someone has complied with the requirements of the order. If the breach was minor and the person is generally compliant, they can impose tougher penalties (for example a longer curfew or unpaid work) and/or a fine, rather than activating the custodial sentence. Guidance from the Sentencing Council states that if a person fails to comply with the requirements of their suspended sentence the court will usually have to activate the original custodial sentence and send someone to prison.[355]

In the year ending June 2024 46,365 people were sentenced to suspended sentence orders and 73,425 were sentenced to community orders.[356] The impact assessment for the bill accepts that there may be an impact on courts, and on prisons, if there is an increase in people being breached, then resentenced, and if custodial sentences are activated.[357] This has not been assessed.

The government's ECHR Memorandum for the bill states that Article 5, right to liberty and security is engaged because people on a suspended sentence order may have their original sentence activated at a breach hearing and people on community sentence or youth referral orders could return to court following breach and receive a prison sentence. However, the government argues that this falls within an authorised measure of Article 5(1) when deprivation of liberty is lawful because it is following conviction at a competent court.

Article 7 rights – no punishment without law – are also engaged because this measure would affect people who have committed an offence but have not yet been convicted. The government believes there is no retrospective increase to a penalty as they consider the measure a management tool for the administration of the sentence and are satisfied that this is compatible with Article 7.

Article 8, the right to private and family life, is also impacted, as people must disclose personal information. However, the government believes that this is connected to a legitimate aim, that of protecting the public and preventing crime and disorder. It also believes that it is proportionate, as it will end when the supervision period finished.

354 Explanatory notes Crime and Policing Bill (PDF), para 906

355 The Sentencing Council is an independent non-departmental public body whose primary role is to issue guidelines on sentencing, which the courts must follow unless it is in the interests of justice not to do so.

356 Gov UK, Criminal Justice System sentence types, 20 February 2025

357 Gov UK, Crime and Policing Bill 2025 Impact Assessments, 25 February 2025

The bill

Clause 105 will mean that anybody in England and Wales who on a community sentence, including children on a referral order or youth offender contract will need to inform their responsible officer if they change their name, use a different name (for example an alias) or change their contact information.

Subsection (3) contains amendments that place a duty on children under the supervision of the local Youth Offending Team to notify their responsible officer if they change their name address, phone number or email address, as soon as reasonably practical. This will apply for all existing orders.

Subsection (3)(c) contains arrangements that mean a breach of the above will be treated in court in the same way as a breach of a rehabilitation order. These incudes a fine of up to £2,500, new order terms and/or resentencing.

Subsections (4) and (5) make amendments to section 215 of the Sentencing Code (for adults on a community sentence) and section 301 of the Sentencing Code (for adults on a suspended sentence). This will require them to notify their probation officer if they change their name, address, phone number or email address, as soon as reasonably practical.

Schedule 10 of the Sentencing Code details court powers if there is a breach, this includes making the order more onerous, imposing a fine or resentencing. Schedule 16 of the sentencing code sets out the court powers if there is a breach and says if the breach is proven the presumption will be that the court will activate the custodial sentence.

10 Serious crime: theft and fraud

The bill includes several measures aimed at disrupting serious crime related to theft and fraud offences. In summary:

- Clauses 78 and 79 would make it an offence to possess, import, manufacture, adapt, supply or offer to supply electronic devices used to steal cars.
- Clauses 80 to 82 would create offences of possession or supply of a SIM farm. Schedule 10 would provide police powers of entry and search in relation to the offences.
- Clauses 83 to 85 would create offences of possession or supply of other electronic devices used to commit fraud. The devices would be specified in secondary legislation.
- Clause 92 and schedule 12 would enable specified law enforcement and government agencies to apply for suspension of certain IP address and domain names linked to serious crime.

These measures would extend to the UK.

10.1 'Signal jammers' and other electronic devices used to steal cars

Clauses 78 and 79 would make offences to possess, import, manufacture, adapt, supply or offer to supply electronic devices used to steal cars.

Background

The government's explanatory notes state that "vehicle theft offences continue to be high".[358] It cites the following statistics:

- The Crime Survey for England Wales estimates that there were 732,000 incidents of vehicle-related theft in the year ending September 2024, including theft of a vehicle, theft from a vehicle and attempted thefts.[359]

[358] Crime and Policing Bill – Explanatory notes (PDF), para 107

[359] ONS, Crime in England and Wales: year ending September 2024, 30 January 2025.

- Police recorded crime data shows there was a total of 375,048 vehicle related thefts in the year ending September 2024: 188,517 thefts from a vehicle; and 132,412 thefts of a vehicle.[360]

Thefts of vehicles across the UK have been linked to organised criminals, who reportedly seek to export the vehicles oversees.[361]

Many car thefts are aided by electronic devices such as 'signal jammers', that are used to gain entry to a car without a key. The Metropolitan Police estimates that in London, such devices are used in around 60% of vehicle thefts.[362] Police forces have warned members of the public about thefts of keyless cars and have highlighted specific models that are most at risk.[363] Various policing bodies, including the Police Service of Northern Ireland, the National Police Chiefs' Council (NPCC) and Police.UK have published advice to owners of keyless vehicles on how to prevent theft.[364]

Technologies to steal keyless cars have been available for several years, and the motoring industry has been criticised for not responding effectively to security flaws.[365] More recently, the industry appears to have worked with the police regarding keyless security, including through the National Vehicle Crime Working Group, chaired by the NPCC.[366] In July 2024, Jaguar Land Rover reported it had provided funding to help support police operations at ports.[367]

The previous government proposed a new offence to effectively ban electronic devices used for vehicle theft. This was included under the Criminal Justice Bill 2023-24, which fell at dissolution before the 2024 general election.

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360 Home Office, Police recorded crime and outcomes open data tables, 30 January 2025. Please note that this data captures crime which is recorded by the police, rather than being an estimate of the total volume of crime. Not all crime is reported to the police and these statistics are also sensitive to changes in recording practices so apparent changes from one period to the next should be treated with caution.

361 BBC, 'In 60 seconds the car was started and stolen', 23 August 2024; The Guardian, Gone in 20 seconds: how 'smart keys' have fuelled a new wave of car crime, 24 February 2024; The Times, How keyless car theft is driving organised crime in Scotland, 26 December 2023.

362 Crime and Policing Bill – Explanatory notes (PDF), para 108

363 See, for example: Hampshire Police, Officers issue warning to keyless car owners following recent theft reports in Basingstoke, 7 March 2024; Lincolnshire Police, Warning after several keyless car thefts in south Lincolnshire, 28 February 2024; BirminghamLive, Warning from police as thieves increasingly target one car model, 26 April 2023; My London, Met Police name 6 cars most likely to be stolen, 25 March 2023

364 PSNI, Preventing Keyless Car Theft [undated, accessed 18 February 2025]; NPCC, Putting the brakes on keyless car theft, 29 August 2023; Police.uk, Preventing car and vehicle theft [undated, accessed 18 February 2025].

365 See, for example: Autotrader, What are keyless cars? How to prevent thefts?, 5 May 2022; Which?, Keyless car theft - why aren't car manufacturers doing more?, 3 May 2020; BBC, Six new cars rated 'poor' for security in theft-risk survey, 21 March 2019; RAC, Car hacking and key hacking – should I be worried?, 4 February 2019

366 PQ 11519, Cars: Theft, 4 March 2024

367 JLR, JLR invests more than £1m to support UK police in tackling vehicle thefts, 12 June 2024

The Labour government has reintroduced this proposal into its Crime and Policing Bill.

The bill

Clause 78 (1)(2) would make it offences to possess, import, manufacture, adapt, supply or offer to supply an "electronic device in circumstances which give rise to a reasonable suspicion that the device will be used in connection with a relevant offence".[368] This would apply across the UK.

A "relevant offence" would mean:

- In England and Wales, a theft of a vehicle or anything in a vehicle, under sections 1 and 12 of the Theft Act 1968.
- In Northern Ireland, a theft of a vehicle or anything in a vehicle, under sections 1 and 12 of the Theft Act (Northern Ireland) 1969.
- In Scotland, a theft of a vehicle under common law or under section 178 of the Road Traffic Act 1988.[369]

The offence under clause 78 would be an either way offence, carrying a maximum penalty of five years' imprisonment on conviction in a crown court.[370]

It would be defence for someone to "show" (on the balance of probabilities) that they "did not intend or suspect that the device would be used in connection with a relevant offence".[371] The prosecution would need to demonstrate beyond reasonable doubt the contrary.[372]

Clause 79 would bring the offence within the scope of 'lifestyle offences' in the Proceeds of Crime Act 2002. This would enable a court to make a confiscation order under the 2002 act, to force an offender to pay back some or all of the proceeds from their offence.[373]

These provisions are the same as those introduced in the Criminal Justice Bill 2023-24.

368 The bill does not further define "electronic device", presumably to future-proof the provision from advances in technology. The explanatory notes state that the devices it intends to cover, are "signal jammers, signal amplifiers, devices used to access a vehicles 'CAN bus (wiring systems), and a device which when touched against the door handle of the vehicle can process the signal from the vehicle and calculate an unlock code". See: Crime and Policing Bill – Explanatory notes (PDF) para 109.

369 Clause 78(5)

370 Clause 78(6)

371 Clause 78(3)

372 Clause 79(2)

373 Clause 79(3)

10.2 Prohibiting SIM farms and other devices

- Clauses 80 to 82 would create offences of possession or supply of a SIM farm. Schedule 10 would provide police powers of entry and search in relation to the offences.
- Clauses 83 to 85 would create offences of possession or supply of other electronic devices used to commit fraud. The devices would be specified in secondary legislation.

Background

A SIM card is a memory card used in mobile phones to identify and authenticate users and communicate with mobile networks. A SIM box is a device that can house multiple SIM cards simultaneously. Multiple SIM boxes can form a SIM farm, which can be used to send thousands of text messages in a short space of time.

Some users have claimed that there are legitimate uses for multi-SIM devices, such as for marketing purposes and they are reportedly cheaper than alternative solutions provided by third parties, such as application-to-person (A2P) platforms.[374]

However, SIM farms have been used by fraudsters to send scam text messages in bulk in a way that is cheap and difficult to detect.[375] According to a survey conducted for the telecommunications regulator Ofcom in August 2022, 75% of UK mobile users had received a suspicious text or call in the preceding three months.[376] An earlier Ofcom survey found that 44% of people received suspicious text messages at least once a week.[377] There are no statistics to show how many scam text messages are sent using SIM farms.

It is already illegal under section 6 of the Fraud Act 2006 to possess an 'article' used for fraud, which could include SIM farms. Those using SIM farms for illegitimate purposes, such as fraudulent scams or spamming, are also at risk of falling foul of data protection law.[378]

However, the Conservative government considered these existing offences to be insufficient, stating that:

> ...it is extremely difficult to establish that a person who possesses, makes or supplies SIM farms is intending to use them for fraud. Likewise, the [Fraud] Act

[374] The Register, UK government rings the death knell for SIM farms, 29 November 2023. The ICO has however taken enforcement action against SIM farms responsible for mass 'spam' marketing, see: ICO raids SIM farm blamed for 350,000 messages, May 2014.

[375] The Times, Inside the 'Royal Mail' text scam factories, 11 April 2021

[376] Ofcom, Research supporting scam statements, 15 November 2022, p9

[377] Ofcom, Scams research 2021, October 2021, p12

[378] A previous version of this briefing stated that the Wireless Telegraphy Act 2006 was also relevant. This was incorrect.

> does not require importers, manufacturers or sellers to undertake checks on the intended use of the device.[379]

It committed to banning SIM farms in its May 2023 fraud strategy and published an accompanying consultation on proposals for implementing the ban.[380] The government received only 50 responses to its consultation, many of which identified themselves as legitimate users of SIM farms and were opposed to a ban.[381]

The Conservative government introduced measures to create offences for the possession or supply of devices which can hold five or more SIM cards in its Criminal Justice Bill 2023-24. The provision would have allowed the government to amend the definition of SIM farms, to respond to technological advances, as identified by Mobile UK (see below). The bill fell at dissolution before the 2024 general election.

The Labour government has reintroduced amended versions of these measures in its Crime and Policing Bill.

Responding to advances in technology

Mobile UK, the trade association for the UK's four mobile network operators EE, Virgin Media O2, Three and Vodafone, responded to the 2023 Home Office consultation on SIM farms (PDF). It raised concerns that the proposal to ban SIM farms could be ineffective, as it did not reflect recent changes in the use of technology by fraudsters. For example:

- Evidence supplied by a mobile network operator suggests that the most common way of despatching spam SMSs comes through single SIM devices, not SIM farms.
- Some handsets now have the capacity to hold multiple e-SIMs, reducing the need for SIM farms, but the government's proposals only covered physical SIMs.
- Fraudsters are already migrating to applications that do not use an SMS channel, such as WhatsApp in response to mobile operators' blocking of fraudulent text messages via bulk messaging technology.

It said the proposals would not eradicate mass spam or scam SMSs and recommended that the government "consider broadening the definition of SIM farm to consider software or e-sim-enabled ways of achieving equivalent outcomes".[382]

379 Home Office, Preventing the use of SIM farms for fraud, 3 May 2023
380 Home Office, Preventing the use of SIM farms for fraud, 3 May 2023
381 Home Office, Government Response to the Consultation "Preventing the use of SIM farms for fraud", November 2023
382 MobileUK, Home Office consultation on preventing the use of SIM farms for fraud, June 2023

In the proposals in this bill, the government would have powers to amend the definitions of 'SIM farms' and prohibit other electronic devices used to commit fraud, via secondary legislation. This provision was included in the Criminal Justice Bill 2023-24.

The bill: SIM farms

Clauses 80 to82 would create offences of possession or supply of a SIM farm. Schedule 10 would provide police powers of entry and search in relation to the offence. These would apply across the UK.

A 'SIM farm' would be defined in clause 82 as "a device which is capable of using five or more SIM cards simultaneously or interchangeably" for the purpose of sending calls or text messages.[383]

Clause 82(4) would allow the Secretary of State to amend definitions in clause 82 via secondary legislation. The government has said this recognises that "communications technology is dynamic and develops constantly" and that this power will help future-proof the legislation, to "ensure that equivalent future iterations of the technology continue to be banned".[384]

Clause 80 would make it an offence to possess a SIM farm without "good reason or lawful authority". It provides a non-exhaustive list of 'good reasons' for possessing a SIM farm, namely:

- providing broadcasting services
- operating a public transport service
- operating an electronic communications service
- tracking or monitoring freight

Clause 81 would make it an offence to supply a SIM farm to another person. A person supplying a SIM farm would not commit an offence if they could prove all of the following:

- the SIM farm was supplied in the course of its business, or otherwise had good reason or lawful authority to possess the SIM farm,
- they took reasonable steps to confirm that the person to whom the SIM farm was supplied had good reason or lawful authority for possessing it,

[383] The restriction of five SIM cards relates to the fact there are four mobile network operators (MNOs) in the UK (EE, O2, Three, and Vodafone). A legitimate use of SIM farms is for business-to-customer communications (such as appointment reminders). To give them the best chance of having a mobile signal, businesses may use a multi-SIM device with a SIM card from each MNO. For this they would need four SIM slots, but no more.

[384] Secondary legislation would be subject to the draft affirmative procedure. See: Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), p.42.

- and they recorded specified information about the supply, such as the date and the address of the recipient.[385]

Both offences would be summary only, with a maximum penalty of an unlimited fine in England and Wales or up to a level 5 fine (£5,000) in Scotland and Northern Ireland.[386]

Schedule 10 would provide for police powers to enter and search vehicles, vessels and aircraft without a warrant, where it is reasonably believed an offence under clause 80 or 81 has been committed.[387] It would also allow for the police to apply for warrants to enter and search premises.[388]

The government states that these specific powers are needed because existing search powers (for example in the Police and Criminal Evidence Act 1984 in England and Wales) are otherwise only available for indictable offences.[389]

The bill: Other technologies

Clauses 83 to 85 would create offences of possession or supply of other specified electronic devices used to commit fraud.

Clause 85 would allow the Secretary of State to make regulations specifying articles that are considered of having a 'significant risk' of being used to commit fraud by means of:

- an electronic communications networks, or
- an electronic communications service[390]

Electronic communications networks or services have the same definition as under section 32 of the Communications Act 2023.[391] This is a broad definition, that can mean any service that members of the public can receive electronic data from.[392]

Under clauses 83 and 84 respectively, it would be a criminal offence to possess or supply any specified article, with a maximum penalty of an unlimited fine in England and Wales, and a fine of £5,000 in Scotland and Northern Ireland.[393]

385 The required information is listed in clause 81(4)
386 Clause 80(5)
387 Schedule 10, paragraphs 3 and 4
388 Schedule 10, paragraph 5
389 Home Office, Criminal Justice Bill: ECHR memorandum, 14 November 2023, p5. An indictable offence
390 Regulations would be made by draft affirmative procedure. See: Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), pp.42-43
391 Clause 85(5)
392 Information Commissioner's Office, Key concepts and definitions, last updated 21 August 2023
393 Clauses 83 and 84

It would be a defence for a person to prove that they had good reason or lawful authority for possessing or supplying the specified article.[394] It does not provide examples of what a good reason would be.

The government has explained that this power will enable the government to respond to technological advances by fraudsters:

> Technology continues to develop and criminals constantly change their mode of operation, not least in response to new measures that disrupt their activity. This power ensures that the Government and law enforcement agencies are able to respond promptly to threats that emerge in the future.[395]

Clause 85(5) specifies that the extension of entry and search powers for offences relation to SIM farms under schedule 10, would also apply to offences under clauses 83 and 84.

10.3 Suspending IP addresses and domain names

Clause 92 and schedule 12 would enable specified law enforcement and government agencies to apply for suspension of certain IP address and domain names linked to serious crime.

Background

The government wants to give powers to the police and certain government agencies to suspend (IP) addresses and domain names that are being used for criminal purposes. 'IP addresses' and 'domain names' refer to the following:

- An Internet Protocol (IP) address is a unique numerical identifier. Each device and network connected to the internet has its own IP address, which allows different devices and networks to communicate with each other.

- A domain name is the textual name assigned to each website on the internet (for example, www.parliament.uk). They are shorter and easier to remember than the website's IP address or the URL assigned to each individual webpage. Domain names are managed by registries who are responsible for keeping a record of who owns which domain. Individual domain names are leased to end users by registrars accredited by the relevant registry.

In May 2021 the government published a call for evidence on the Computer Misuse Act 1990, the main piece of legislation on computer-enabled crime.[396]

394 Clause 83(2) and 84(2)

395 Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), p.43. Secondary legislation would be subject to the draft affirmative procedure.

396 Home Office, Computer Misuse Act 1990: call for information, 11 May 2021

Based on the call for evidence, the government published a further consultation in February 2023 on proposals for legislative change.[397]

The consultation included a proposal to create a new power for law enforcement agencies to take down IP addresses and domain names that are being used for criminal purposes. This would be done by means of a court order requiring the organisation responsible for registering the IP address or domain name to prevent access.

The consultation acknowledged that existing voluntary arrangements between law enforcement and domestic IP address and domain name providers are "often effective".[398] However, the government argued that a formal power is needed to:

- provide an alternative route where voluntary arrangements are not available or not complied with
- help law enforcement agencies deal with overseas IP address and domain name providers, who may not respond to informal requests

Consumer group Which? said in response to the consultation that the proposed power to order IP address and domain name takedowns was "an appropriate and decisive tool" given that voluntary arrangements are not always sufficient.[399]

The government's analysis of responses noted concerns that a statutory power could crowd out existing voluntary arrangements.[400] Nominet (the company responsible for domain names ending .uk, .cymru, and .wales) suggested that domain providers might insist that law enforcement use the statutory route, as it would have a clear basis in law. Nominet itself said that having considered the proposals it expects to continue using its voluntary procedures in the first instance and treat the statutory route as "effectively an appeal mechanism where a domain registrant disagrees with the suspension of their domain."[401]

In its response to the consultation, the government said that there was "broad support" for "introducing a statutory power, although it expects that "voluntary arrangements will continue to be the primary route for action".[402] The government brought forward this proposal into its Criminal Justice Bill 2023-24, which fell before the 2024 general election.

397 Home Office, Review of the Computer Misuse Act 1990: consultation and response to call for information, 7 February 2023
398 Home Office, Review of the Computer Misuse Act 1990: consultation and response to call for information, 7 February 2023
399 Which?, The Home Office's Review of the Computer Misuse Act 1990 and proposals for change - Which? response, 6 April 2023
400 Home Office, Review of the Computer Misuse Act 1990: analysis of responses, 14 November 2023
401 Nominet, Home Office review of the Computer Misuse Act 1990, 3 March 2023
402 Response to consultations on tackling crime and anti-social behaviour, HCWS33, 14 November 2023

The Labour government has reintroduced the proposal into its Crime and Policing Bill.

The bill

Clause 92 and schedule 12 would make provision for IP address and domain name suspension orders.

Under schedule 12, an 'appropriate officer' could apply to the courts for an IP address suspension order or a domain name suspension order. A suspension order would require a specified IP address provider, or a domain registry, to prevent access to a specified IP address or domain name for a specified period of time (up to a maximum of 12 months). There would be no limit on the number of times the specified period may be extended, but each extension could be for no more than 12 months.

This would apply across the UK. An 'appropriate officer' in England, Wales, and Northern Ireland is defined as an officer for:

- the police
- the National Crime Agency
- HM Revenue and Customs
- the Financial Conduct Authority[403]

In Scotland, the appropriate officer must be a procurator fiscal.

A judge can approve an order if satisfied that four conditions are met:

- The IP address/ domain name is being used or will be used for the purposes of serious crime,[404]
- that there is a relationship between the IP address/ domain name and the UK,
- it is necessary and proportionate to suspend the IP address/ domain name, and
- there are no alternative ways to effectively suspend the IP address/ domain name.[405]

The schedule also sets out rules for:

[403] In England and Wales, the Gambling Commission is also an appropriate officer.

[404] Schedule 12, Paragraph 19 defines serious crime as:

[405] Schedule 12, paragraph 2 (IP address suspension orders) and schedule 12, paragraph 4 (domain name suspicion orders)

- when suspension orders would include non-disclosure requirements on the IP address or domain name provider against whom it is made
- a judge to discharge or vary a suspension order
- officers to apply to the court for a suspension order to be extended
- serving orders on persons outside the UK
- allow rules of court to make further provision for procedures and practice in connection with procedures relating to suspension orders, for example establishing a route of appeal

These are almost identical to the measures introduced by the previous government under the Criminal Justice Bill 2023-24.[406]

[406] House of Commons Library, Criminal Justice Bill 2023-24, section 3.4

11 Public order

The bill would introduce new protest-related laws. In summary:

- Clauses 86 to 88 would make it an offence for someone to conceal their identity at certain protests.
- Clause 89 would make it an offence to possess pyrotechnics at a protest.
- Clause 90 would make it an offence to climb specified war memorials.

These measures would apply only to England and Wales.

11.1 Background: policing protests

An individual's right to freedom of expression and assembly are protected by articles 10 and 11 of the European Convention on Human Rights (ECHR), which is enshrined in UK law.[407] Together, the articles safeguard the right to peaceful protest. However, these rights are not absolute, and the state can implement laws that restrict the right to protest to maintain public order or protect the rights and freedoms of others.

In the UK, several pieces of legislation provide a framework for the policing of protests. The Public Order Act 1986 provides the police with powers to place conditions on protests. There are several criminal offences that could apply to a person's conduct during a protest, such as obstruction of a highway, and aggravated trespass.

Parliament has also legislated for a significant extension of police powers in relation to protests in recent years, partly in response to largely peaceful but disruptive tactics deployed by groups such as Extinction Rebellion and Just Stop Oil.[408] The Public Order Act 2023 established several new protest-related criminal offences (such as 'locking-on' and 'tunnelling'), while the Police, Crime, Sentencing and Courts Act 2022 established a statutory offence of 'public nuisance' and expanded the circumstances under which the police could place conditions on protests.[409]

[407] The Human Rights Act 1998 gives domestic effect to the ECHR.

[408] HMICFRS, Getting the balance right? An inspection of how effectively the police deal with protests (PDF), 11 March 2021

[409] The impact of this legislation is explained in detail in the Library briefing Police powers: Protests, December 2024.

Some reports had questioned whether existing legislation was sufficient to respond to changing protest tactics and to protect the rights of the public to go about their lives free from disruption.[410] On the other hand, the Joint Committee on Human Rights said that the combined measures in the 2022 and 2023 acts would likely "have a chilling effect on the right to protest in England and Wales" (PDF).[411]

In 2024, the previous Conservative government sought to establish further protest-related offences through amendments at report stage of the Criminal Justice Bill 2023-24. These were in relation to:

- wearing face coverings at certain protests
- possessing pyrotechnics at a protest
- climbing certain war memorials
- causing serious disruption to road transport infrastructure.[412]

These were announced by the Minister in February 2024, and accompanied by a press release.[413] The government said these were in response to the regular and large-scale protests held in the context of the conflict in Israel and the Occupied Palestinian Territories.[414]

The proposals also included measures to mitigate against a Supreme Court ruling in 2021, known as 'Ziegler'. This found that in some circumstances, protestors charged with protest-related offences could demonstrate that their protected rights of freedom of speech and assembly (afforded by Articles 10 and 11 of the ECHR) amounted to a 'lawful excuse' for their actions (see box 5).[415] The government stated that it would legislate to address this:

> Protesters have for too long been able to claim in law that protest is a "reasonable excuse" for criminal behaviour. Blocking roads, preventing ambulances from getting through and stopping people from getting to work or visiting loved ones are breathtakingly selfish acts. The British public certainly do not see an acceptable justification for that level of disruption to their life. That is why we are removing that defence for relevant crimes. Protesters will no longer be able to cite the right to protest as a reasonable excuse to get away with disruptive offences, such as blocking roads.[416]

The amendments to the Criminal Justice Act 2023-24 specified that being part of a protest could not be used as a "good reason" or "reasonable excuse"

410 Lord Walney, Protecting our democracy from coercion, 21 May 2024
411 The Library briefing Police powers: Protests (December 2024) provides further background to these debates.
412 See: NC96 – NC102, Criminal Justice Bill: Notices of Amendments as at 24 May 2024 (PDF), pp.33-41
413 Home Office, New protest laws on face coverings and pyrotechnics, 8 February 2024; Oral statement, Protest measures, 8 February 2024
414 For example, in February 2024, the Home Affairs Committee published a report warning that the protests were "causing unsustainable pressure on policing resources."
415 Director of Public Prosecutions v Ziegler & Ors, [2021] UKSC 23
416 Oral statement, Protest measures, 8 February 2024

defence for climbing a war memorial or possessing a pyrotechnic.[417] They also included a new clause to exclude "protest" as a lawful or reasonable excuse for a range of other offences related to disruptive protests.[418]

These amendments were never debated before the Criminal Justice Bill 2023-24 fell at dissolution.

In its Crime and Policing Bill, the Labour government has revived amendments around face coverings, pyrotechnics and war memorials (see below). However, it has not however included measures intended to mitigate against Ziegler or in relation to serious disruption to road traffic infrastructure.

3 Ziegler

In September 2017, three protestors were charged with obstruction of the highway after blocking a road outside an arms fair in London.[419]

Their cases were taken through the High Court and Supreme Court over the question of whether protest, and the legitimate exercise of Articles 10 and 11, could constitute a "lawful excuse" for deliberately obstructing the highway.[420] This case is referred to as 'Ziegler'.

The Supreme Court ultimately concluded that the protections of free speech and assembly afforded by the EHCR could be extended to protesters who intentionally cause obstruction of the highway.

The ruling does not mean that protest is always a lawful excuse to obstruct a highway, but rather that prosecuting someone for their actions in relation to a deliberately obstructive protest is not necessarily a proportionate interference with the protesters' ECHR rights. Therefore, for a conviction, prosecutors need to prove beyond reasonable doubt that such interference is necessary and proportionate.[421]

417 NC99 and NC100, Criminal Justice Bill: Notices of Amendments as at 24 May 2024 (PDF), pp.36-37

418 NC102, Criminal Justice Bill: Notices of Amendments as at 24 May 2024 (PDF), pp.39-41

419 Director of Public Prosecutions v Ziegler & Ors, [2021] UKSC 23

420 Director of Public Prosecutions v Ziegler & Ors, [2021] UKSC 23

421 See also: CPS, Offences during protests, demonstrations or campaigns, updated 4 April 2024, [accessed 4 July 2024]

11.2 Concealing identity at protests

Clauses 86 to 88 would make it an offence for someone to conceal their identity at certain protests.

Background

In certain circumstances, the police can request that someone removes an item used to conceal their identity if an authorisation under section 60AA of the Criminal Justice and Public Order Act 1994 is in place, or if an authorisation under section 60 of the 1994 act is already in force.[422]

Section 60AA can be authorised by an officer of inspector rank or above, in a specific locality and for a maximum period of 24 hours, where it is reasonably believed the commission of offences may take place. Under section 60AA it is an offence not to remove a face covering when instructed to do so by a police officer. The maximum penalty is one month in prison, a fine, or both.

The police have reported that protestors may initially comply with a direction to remove their face covering, before re-entering the protest and re-applying the face covering. The police can then not always tell who they have already asked to remove a face covering and so are unable to make arrests.[423]

The previous Conservative government sought to enable the police to effectively ban people from concealing their identity at designated protests, through amendments to the Criminal Justice Bill 2023-24.[424]

Its proposals would have enabled the police to prohibit people from using an item to conceal their identity during a protest. It would then be a criminal offence for someone to fail to comply with a ban. The bill fell at dissolution before the 2024 general election.

The Labour government has reintroduced similar measures into its Crime and Policing Bill.

The bill

Clause 86 would create an offence of "wearing or otherwise using an item that conceals their identity or another person's identity" in a designated place. A place could be designated by a police officer of inspector or above if the officer reasonably believes that a protest will take place, and offences are

422 Section 60, Criminal Justice and Public Order Act 1994 provides police with powers to stop and search without reasonable grounds for suspicion, if a senior police officer "reasonably believes" that serious violence has occurred, may occur, or that people are carrying dangerous weapons in a locality.

423 Crime and Policing Bill – Explanatory notes (PDF), para 115; The Conservative government explained its rationale in a letter to the then Opposition (PDF), 10 May 2024.

424 NC96, Criminal Justice Bill: Notices of Amendments as at 24 May 2024 (PDF), pp.33-36

likely to be committed (clause 87). The offence would be summary only and carry a maximum penalty of one month imprisonment and a £1,000 fine.[425]

The provision does not specify what 'concealing identity' means.

It would not require that the person intended to use the item to conceal their identity, only that the item did conceal their identity. This is drawn slightly broader than section 60AA, or the provision proposed by the previous government, which requires that someone is using an item "wholly or mainly for the purpose" of concealing their identity.[426]

In the explanatory notes, the government states that the phrase "or otherwise using an item", is intended to cover instances other than just face coverings, for example "placards or masks held close to the face, which are used for the purposes of concealing identity".[427] This could be considered a broad definition, given the wide use of placards at protests.

Clause 87 states that the police must ensure all reasonable steps are taken to notify people that the designation is in place. It also states that a place can be designated for an initial 24 hours, extended up to 48 hours with approval by a police officer of rank at least superintendent. Clause 88 specifies the processes the police must take when designating a place under clause 86.

11.3 Possession of pyrotechnics at protests

Clause 89 would make it an offence to possess pyrotechnics at a protest.

Background

Broadly speaking, it is legal for adults to possess pyrotechnics in public in England and Wales. It is only a criminal offence to possess pyrotechnics at:

- a qualifying musical event, under section 134 of the Policing and Crime Act 2017
- a designated sporting event, under section 2A of the Sporting Events (Control of Alcohol etc.) Act 1985

425 This is the same penalty as an offence under section 60AA, Criminal Justice and Public Order Act 1994.

426 Section 60AA(2), Criminal Justice and Public Order Act 1994; NC96, Criminal Justice Bill: Notices of Amendments as at 24 May 2024 (PDF), p33-36

427 Crime and Policing Bill – Explanatory notes (PDF), para 732

It is also a criminal offence for anyone under the age of 18 to possess an adult firework in a public place, under the Fireworks Regulations 2004.[428]

In February 2024, the Conservative government announced that it intended to ban the use of pyrotechnics at protests. It subsequently tabled amendments to the Criminal Justice Bill 2023-24 to implement this, providing the following rationale:

> during the recent protests related to the Gaza conflict, the police have observed an increase in the use of flares and fireworks at marches and assemblies. In some cases, protesters have fired fireworks towards the Israeli embassy and police officers. One video shared on social media shows protestors climbing the statue of Winston Churchill holding a discharged flare. This activity has clear implications regarding safety and the public's perception of lawlessness that can cause fear and contribute to wider disorder.[429]

The bill fell at dissolution before the 2024 general election. Labour, then in opposition, stated it welcomed "a ban on flares and fireworks, which have been used to fuel public disorder and intimidate police officers in recent months". However, it suggested that "large protests could pose a challenge to enforcing the ban effectively" and suggested that guidance should be issued to police forces on enforcing the ban at large protests.[430]

The bill

Clause 89 would create a new offence of possessing a 'pyrotechnic article' at a public protest. A 'pyrotechnic article' is defined as:

> an article that contains explosive substances, or an explosive mixture of substances, designed to produce heat, light, sound, gas or smoke, or a combination of such effects, through self-sustained exothermic chemical reactions, other than—
>
> (a) a match, or
>
> (b) an article specified, or of a description specified, in regulations made by the Secretary of State.[431]

This would include items such as flares, firecrackers and fireworks. The maximum penalty for an offence would be a fine up to £1,000.[432]

Clause 89(2) states that an offence is not committed if a person is "taking part in a cultural or religious event of a kind at which pyrotechnic articles are

[428] The rules governing the sale, use and possession of fireworks are set out in the Library briefing, Regulation of fireworks (December 2024).
[429] Chris Philp MP, Letter to the Opposition (PDF), 10 May 2024
[430] Hansard, Protest Measures, 8 February 2025, column 381
[431] 89(7)
[432] 89(6)

customarily used". This is designed to protect those celebrating certain events, such as Diwali or Deepavali and the Chinese New Year.[433]

Clauses 89(3) to 89(5) would also create defences of having a 'reasonable excuse' for having the pyrotechnic article or having it in relation to work.[434] Clause 89(7) allows for the Secretary of State to exempt articles from the definition of 'pyrotechnic articles' in secondary legislation.[435]

This is very similar to the provision proposed under the Criminal Justice Bill 2023-24.[436] The only change is that this clause does not specify that protest does not constitute a 'good reason', as a mitigation against Ziegler (see 10.1 of this briefing for more information).

11.4 Climbing war memorials

Clause 90 would make it an offence to climb certain war memorials.

Background

In recent years, statues and memorials have become sites of political contestation.

In 2020, Black Lives Matter organised largely peaceful protests across the UK following the murder of George Floyd. Some protests resulted in statues commemorating people linked to the slave trade being pulled down or defaced.

During a protest in central London in June 2020, some protestors were filmed climbing and causing damage to the cenotaph war memorial in Whitehall. Far-right groups also organised events to 'defend' war memorials, some of which resulted in significant violence.[437]

In response, the then Home Secretary supported legislation to make it easier to prosecute people who damage memorials.[438] The government subsequently introduced measures under section 50 of the Police, Crime, Sentencing and Courts Act 2022 to increase the maximum sentence available to those convicted of criminal damage to a memorial.[439]

In schedule 2 to the Magistrates' Courts Act 1980, a criminal damage offence should be considered summary only (meaning it can only be tried at a

433 Crime and Policing Bill – Explanatory notes (PDF), para 747
434 Clause 89(3) and 89(4)
435 This would be subject to negative procedure. See: Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), pp.45-46
436 NC99, Criminal Justice Bill: Notices of Amendments as at 24 May 2024 (PDF), p.36
437 Home Office, Protecting our Democracy from Coercion, 21 May 2024, para 3.197
438 Hansard, Protest Measures, 8 February 2025, column 50
439 Section 50, Police, Crime, Sentencing and Courts Act 2022

magistrates' court) where the value of the damage is estimated to be less than £5,000.[440] Such offences have a maximum penalty of up three months' imprisonment.[441]

Under section 50 of the 2022 act, damage to a 'memorial' was exempted from this provision, meaning that regardless of the cost of damage incurred, an offence of criminal damage of a memorial can be tried either way (meaning it can be tried in either a magistrates' or crown court), with a maximum penalty of six months' imprisonment upon conviction at magistrates' court, or 10 years' imprisonment in a crown court.

The definition of 'memorials' provided under the 2022 act was broad:

> "memorial" means -
>
> (a) a building or other structure, or any other thing, erected or installed on land (or in or on any building or other structure on land), or
>
> (b) a garden or any other thing planted or grown on land,
>
> which has a commemorative purpose.

Something has a "commemorative purpose" if:

> at least one of its purposes is to commemorate –
>
> (i) one or more individuals or animals (or a particular description of individuals or animals), or
>
> (ii) an event or a series of events (such as an armed conflict).

It also includes any "moveable thing (such as a bunch of flowers) placed on the memorial" that has a "commemorative purpose". The charity Libertycriticised this broad definition and the "extremely harsh prison sentences being threatened".[442]

In February 2024, the Conservative government announced that it would introduce amendments at report stage of the Criminal Justice Bill 2023-24 to introduce a specific offence of climbing a war memorial.[443] It stated that:

> In recent protests related to the Gaza conflict we have seen protestors climb on war memorials. Understandably, this has caused considerable anger and outrage from the public.[444]

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440 Section 22 and schedule 2, Magistrates' Courts Act 1980

441 Sentencing Council, Criminal damage (other than by fire) value not exceeding £5,000/ Racially or religiously aggravated criminal damage, October 2019

442 Liberty, Written evidence to JCHR (PDF), 19 February 2024

443 Oral statement, Protest measures, 8 February 2024

444 Chris Philp MP, Letter to the Opposition (PDF), 10 May 2024. This was probably in reference to an incident in November 2023, when individuals who had been attending a protest calling for a ceasefire in Gaza, climbed the Royal Artillery Memorial in Hyde Park Corner.

When commenting on the previous government's commitment to create a new offence for climbing a war memorial, Liberty stated that it was "deeply sceptical of further measures that build on very recently passed legislation".[445]

The bill fell at dissolution before the 2024 general election, and the provisions were therefore not debated. The Labour government has reintroduced the measure into this bill.

The bill

Clause 90 would make it a criminal offence to 'climb' on a 'specified war memorial'. This would be a summary only offence, with a maximum penalty of three months' imprisonment, a fine or both.

Schedule 11 details the list of 'specified war memorial'.[446] Clause 90(4) would give the government the power to add or remove specified sites from this list in secondary legislation.[447]

It would be a defence for someone charged with this offence to have had a 'good reason' for climbing on the memorial, to be the owner or occupier of the memorial or to have had consent or other lawful authority to climb it.[448]

The clause is almost identical to that introduced by the Conservative government at report stage to the Criminal Justice Bill 2023-24. The only change is that this clause does not specify that protest does not constitute a 'good reason', as a mitigation against Ziegler (see 10.1 of this briefing for more information).

445 Liberty, Written evidence to JCHR (PDF), 19 February 2024.

446 These are grade I Listed buildings on the DCMS National Heritage List for England (NHLE), curated by Historic England.

447 Regulations would be subject to draft affirmative procedure. See: Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), pp.45-46

448 90(2)

12 Police powers

The bill would expand some other police powers. In summary:

- Clauses 93 to 94 would give the police a new power to enter premises without a warrant to search for electronically tracked stolen goods.
- Clause 95 would allow the Secretary of State to make regulations to enable police and law enforcement agencies to access driver licensing records held by the Driver and Vehicle Licensing Agency (DVLA).
- Clauses 96 to 100 and schedule 13 would expand existing police powers to test suspects in police detention for drugs, by permitting tests in relation to a wider range of offences and for a wider range of drugs.

Clauses 94 and 95 would extend to the UK. Clauses 93 and 96 to 100 would extend to England and Wales only.

12.1 Power of entry: Stolen goods

Clauses 93 to 94 would give the police a new power to enter premises without a warrant to search for electronically tracked stolen goods.

Background

The police have powers available to search premises and seize items as part of an investigation into suspected theft offences. This includes powers to apply to the court for warrant where it is reasonably believed that:

- an individual has stolen goods on their premises, under section 26 of the Theft Act 1968
- an indictable offence has been committed and there is material on a premises that is likely to be relevant evidence, under section 8 of the Police and Criminal Evidence Act 1984 (PACE) [449]

The previous government proposed to create a new power under the Theft Act 1968 to allow for warrantless search of premises to retrieve stolen goods. This was intended for situations where there was concern that stolen goods could

[449] PACE is underpinned by codes of practice, which provide further guidance to support police powers to exercise their statutory powers. PACE Code B sets out guidance for searches of premises and seizing items. College of Policing has also issued guidance for the police in using its search powers.

be moved on by the offender in the time taken for a warrant application to be approved. The government proposed this through the Criminal Justice Bill 2023-24. [450]

At second reading of the bill, several MPs expressed concern at these proposals.[451] Former Home Secretary Priti Patel MP said it was essential that "freedom and civil liberties are maintained and due process remains in place".[452] Other Conservative MPs, including former policing minister Kit Malthouse and then Justice Select Committee chair Sir Bob Neill made similar observations.[453]

The Criminal Justice Bill 2023-24 fell at dissolution before the 2024 general election.

The Labour government has introduced narrower powers in its Crime and Policing Bill to allow for police officers warrantless entry only in circumstances where the police have access to electronic tracking data that indicates a stolen item is on, or has been on, a specified premises.

This is linked to a reported rise in mobile phone 'snatch thefts' and thefts of other goods with GPS tracking or other location finding applications built-in.[454] Sometimes, it may be possible for victims to track their stolen item to a specific premises and inform the police. The government states that:

> Victims of theft can inform the police of where their stolen item last was before tracking facilities were disabled. However, the longer the time that elapsed since the theft, the more likely the tracking facility is to have been disabled and the item moved.[455]

The government states that these powers would therefore "allow swift seizure of stolen property and better gathering of evidence to support investigation and arrest" and "help to prevent stolen goods being moved out of the county or used to facilitate other crime."[456]

The bill

Clause 93 would add new sections 26A to 26C to the Theft Act 1968 to give police a new power to enter premises without a warrant to search for (and

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450 Section 3.3 of the Library briefing, Criminal Justice Bill 2023-24 provides more information on this proposal.

451 PBC Deb 16 January 2024

452 HC Deb 28 November 2023 c745

453 HC Deb 28 November 2023

454 See, for example: BBC, Met Police blitz to fight phone-snatching 'scourge', 6 February 2025; Home Office, Home Secretary hosts summit on mobile phone theft, 6 February 2025; Evening Standard, Catching the snatchers: Fightback as London becomes the phone theft capital of Europe, 20 December 2024.

455 Crime and Policing Bill – Explanatory notes (PDF) para 124

456 Crime and Policing Bill – Explanatory notes (PDF) para 125

seize) suspected stolen goods that have been electronically tracked to the premises. This would only extend to England and Wales.

Under new section 26A, a police officer of at least the rank of inspector would be able to authorise a constable to enter specified premises and search for specified items (both the premises and the items would be specified in the terms of the authorisation).

An officer could only give an authorisation if there are reasonable grounds to believe that:

- the specified items are stolen goods,
- the specified items are on the specified premises,
- it is not reasonably practicable to obtain a warrant for the entry and search without frustrating or seriously prejudicing its purpose, and
- there is electronic tracking data indicating that a specified item is, or has been, on the specified premises.[457]

All the above conditions must be met for an authorisation to be given.

The search powers conferred by an authorisation would have to be executed by a uniformed officer within 24 hours of the authorisation having been given and at a reasonable hour (unless exercising them at a reasonable hour might frustrate or seriously prejudice the purpose of the search).

New section 26B would allow a constable powers under a section 26A authorisation to seize anything on the specified premises (whether or not it is a specified item under the terms of the authorisation), provided they have reasonable grounds to believe:

- that it is stolen goods or evidence in relation to an offence of theft; and
- that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

The explanatory notes state that this would mean, for example, if the police "enter a property to search for one particular stolen phone, but find during their search several other phones they reasonably believe to be stolen and that if not seized, they will be moved off the premises and lost, those phones can also be seized".[458]

New section 26C would provide that the search and seizure powers would not extend to items subject to legal privilege, excluded material or special procedure material.[459]

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457 New section 26A(2)

458 Crime and Policing Bill – Explanatory notes (PDF) para 787

459 As defined in sections 10, 11 and 14, PACE

Clause 94 would make similar provisions for armed service police. This would extend to the UK.

12.2 Driver licence records

Clause 95 would allow the Secretary of State to make regulations to enable police and law enforcement agencies to access driver licensing records held by the Driver and Vehicle Licensing Agency (DVLA). This would apply across the UK.

Background

Under section 71 of the Criminal Justice and Court Services Act 2000, the government can permit the police access to records held by the Driver and Vehicle Licensing Authority (DVLA).[460] Access is restricted to police officers and civilian staff within UK territorial police forces and the British Transport Police, and National Crime Agency officers.[461]

Under section 71(2), the Secretary of State can issue regulations setting out the purpose for which the information may be made available to the police.[462] The current regulations specify that access to DVLA records must be limited to circumstances where the police are investigating suspected offences under the Road Traffic Act 1988. The police can request information from the DVLA for other purposes, but such requests must be handled on a case-by-case basis and the process is not automated.[463]

The Conservative government sought to widen police to access DVLA records through a clause in the Criminal Justice Bill 2023-24.

This would have replaced section 71 of the Criminal Justice and Court Services Act 2000 with a new section 71, which would have extended the power to access DVLA records to non-territorial police forces (such as the Ministry of Defence Police and the Civil Nuclear Constabulary), police officers in Crown Dependency police forces (such as Jersey and Guernsey) and specified other agencies, such as the Independent Office for Police Conduct.

The proposed measure would have allowed for the government to further specify the circumstances under which the police could access DVLA records via secondary legislation. This would have mirrored the government's existing power under section 71 to make regulations specifying rights to access.

However, the Conservative government indicated that it intended to widen the circumstances under which the police could access such data to beyond

460 Records held under part III, Road Traffic Act 1988

461 Section 71(4), Criminal Justice and Court Services Act 2000

462 Regulation 2, Motor Vehicles (Access to Driver Licensing Records) Regulations 2001

463 Crime and Policing Bill – Explanatory notes (PDF) para p134. For other offences, the police can access records on request under schedule 2, Data Protection Act 2018.

those concerning only road traffic offences. In its explanatory notes it stated that the police and the National Crime Agency "have provided compelling and significant examples of where DVLA driver information could have better safeguarded the public should it have been available more promptly".[464]

In public bill committee, the opposition expressed concern that the government intended to issue secondary legislation to expand the circumstances under which the police can access DVLA records. Alex Norris MP, then shadow policing minister, stated:

> The police had access to DVLA information in relation to a very narrow set of offences, but the clause is essentially saying that the information is fair play for enforcement agencies, subject to whatever regulations a Secretary of State may set in the future. That is an egregious use of Henry VIII powers. If the Government have a regime in mind, they should say what it is. Instead, we are possibly giving over the entire DVLA database to the Secretary of State, and it is currently not clear what it will be used for.[465]

He warned that the police could use expanded access to DVLA records in combination with live facial recognition and called for "stronger guardrails" to be set.[466] The opposition tabled an amendment that would require the Secretary of State to publish an annual report on the police's use of driver license records. The amendment was not pressed to division.

The Labour government has now revived similar proposals to the Criminal Justice Bill, within its Crime and Policing Bill.

The bill

Clause 95 would replace existing section 71 of the Criminal Justice and Court Services Act 2000 with a new section 71.

New section 71 would take a similar approach to existing section 71, by allowing the Secretary of State to make driver licensing records available to "an authorised person" and requiring the Secretary of State to make regulations prescribing the purposes for which, and the circumstances under which, information may be made available. These purposes and circumstances would only be permitted to relate to policing or law enforcement.[467]

New section 71 would define "an authorised person" as a person under the direction and control of the chief officer of a body listed in section 71(4) who

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464 Home Office/Ministry of Justice, Policy paper – Criminal Justice Bill: Police powers, 22 November 2023. In addition, representatives from HMICFRS, College of Policing and National Crime Agency welcomed the clause public bill committee, see: PBC Deb 12 December 2023 c14 and PBC Deb 12 December 2023 c48.

465 PBC Deb 16 January 2024 c225

466 PBC Deb 16 January 2024 c229

467 Regulations would be subject to negative procedure. Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), pp.48-49.

has been authorised by that chief officer to receive driver licensing information. The list of bodies is specified in section 71A and would include UK territorial police forces, the British Transport Police and the National Crime Agency, as is currently the case, but would also include other non-territorial and crown dependency police forces (including the Ministry of Defence Police, the Civil Nuclear Constabulary, Crown Dependency police forces and military police forces) and the Independent Office for Police Conduct.

New section 71(5) would specify that the Secretary of State must consult ministers in Wales, and Northern Ireland, and the NPCC and the Association of Police and Crime Commissioners when making regulations.

Clause 95 would also add a new section 71B to the 2000 Act, which would enable the Secretary of State to issue a code of practice about the receipt and use of information under section 71.

Clause 95 would also insert a new section 71C, requiring the Secretary of State to issue an annual report about information made available under new section 71. The first report must be published within a year of commencement.

12.3 Drug testing in custody

Clauses 96 to 100 and schedule 13 would expand existing police powers to test suspects in police detention for drugs, by permitting tests in relation to a wider range of offences and for a wider range of drugs. This would extend only to England and Wales.

Background

In March 2023, the Conservative government published its anti-social behaviour action plan. The plan covered a range of issues connected to anti-social behaviour, including action to tackle illegal drugs.[468]

The plan proposed to expand police powers to carry out drug testing on arrest.[469] Existing rules on drug testing are provided for under sections 63B and 63C of the Police and Criminal Evidence Act 1984 (PACE) (as inserted by section 57 of the Criminal Justice and Court Services Act 2000).

This allows the police to test suspects in police detention for the presence of "specified Class A drugs" in the following circumstances:

[468] The Bill includes clauses relating to other aspects of the plan, including begging and rough sleeping (see section 7 of this briefing) and anti-social behaviour (see section 8 of this briefing).

[469] Department for Levelling Up, Housing and Communities and Home Office, Anti-Social Behaviour Action Plan, March 2023, paras 24-26

- the suspect is aged 18 or over and has been arrested for a 'trigger' offence, or is aged 14 or over and has been charged with a 'trigger' offence; and

- a police officer of at least the rank of inspector authorises the test on the basis there are reasonable grounds to suspect that specified Class A drug use has caused or contributed to the offence.[470]

Specified Class A drugs are those listed in paragraphs 1 to 5 of Part 1 (Class A drugs) of schedule 2 to the Misuse of Drugs Act 1971.[471] 'Trigger offences' are listed in schedule 6 to the Criminal Justice and Court Services Act 2000 and include theft, robbery, burglary, handling stolen goods, possession or supply of a specified Class A drug, and begging or persistent begging.

Both specified Class A drugs and trigger offences can be amended by the government in secondary legislation, as provided for under section 70 of the 2000 act.[472]

In its anti-social behaviour action plan the government said it would expand the list of trigger offences, to include "night-time economy-related offending, offences linked to violence against women and girls, domestic abuse, serious violence, and anti-social behaviour", and the types of drug that could be tested for, to include all Class A drugs as well as some Class B and Class C drugs.[473]

The government sought to legislate for these changes through its Criminal Justice Bill 2023-24. The bill would have amended PACE to broaden the types of drugs that could be tested for (to be specified in regulations), and allowed for the Secretary of State to establish a new list of tigger offenders in regulations.[474]

In general, the Labour party supported these measures. However, some MPs expressed concern over police capacity to conduct additional routine drug tests, and the availability of substance misuse treatment services. For example:

- At second reading, both Tony Lloyd MP (Lab) and Dame Diana Johnson MP, then Chair of the Home Affairs Committee, questioned whether there were sufficient drug treatment services available to refer people who tested positive.[475]

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470 Drug tests consist of samples or urine or other 'non-intimate' samples.

471 Section 70 of the Criminal Justice and Court Services Act 2000 defines specified Class A drugs by reference to the Criminal Justice (Specified Class A Drugs) Order 2023, which in turn refers to paragraphs 1 to 5 of Part 1 (Class A drugs) of Schedule 2 to the Misuse of Drugs Act 1971

472 This is subject to the negative procedure.

473 As above, paras 25-26

474 Amendments at committee stage clarify the process under which regulations can be made to specify relevant controlled drugs and trigger offences.

475 HC Deb 28 November 2023 c726 and cc754-755

- At Public Bill Committee, Harvey Redgrave, Chief Executive of Crest Advisory, a criminal justice consultancy, and Andy Marsh, Chief Constable of College of Policing, both suggested that police forces may not currently have the capacity to deliver wider drug testing.[476]

- At Public Bill Committee, Jess Phillips MP (Lab) asked the Minister to outline what resources the Home Office would put in place to ensure wider drug testing could take place.[477]

In addition, at public bill committee, the government introduced a new clause which would further expand police powers to test arrested suspects for drugs at locations outside of police custody. Alex Norris MP, Shadow Minister, said this was "a huge and significant change to the purpose of this part of the Bill."[478] Chris Philp stated it was a "discretionary power" to be used when it is "operationally appropriate to test on the spot outside of a custodial setting."[479]

The Criminal Justice Bill 2023-24 fell before the dissolution of Parliament in 2024.

The Labour government has reintroduced measures to broaden the circumstances under which the police could test people in police custody. It has not reintroduced the Conservative government's proposal for testing outside of police detention.

The bill

Clauses 96 to 100 and schedule 13 would expand existing police powers to test suspects in police detention for drugs, by permitting tests in relation to a wider range of "trigger offences" and for a wider range of drugs.

Clause 96 would amend sections 63B and 63C of PACE to replace references to "specified Class A drugs" with "specified controlled drugs".

"Specified controlled drugs" would be defined to include any controlled drug (within the meaning of the Misuse of Drugs Act 1971, which includes Class A, B and C drugs). The Secretary of State would then specify precisely which drugs could be tested for in regulations.[480]

Schedule 13 would insert a new schedule 2B into PACE, providing a list of "trigger offences". This list is much wider than that currently provided in schedule 6 to the Criminal Justice and Court Services Act 2000 (this list would be repealed), and includes offences related to:

476 PBC Deb 12 December 2023 cc 37 and 52

477 PBC Deb 16 January 2024 c186

478 PBC Deb 16 January 2024 c192

479 PBC Deb 16 January 2024 c197

480 This would be subject to the negative procedure. See: Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), pp.50-53

- violence against a person
- possession of knives and offensive weapons
- public order and football-related disorder
- sexual offences

It would also remove offences under the vagrancy act of begging and persistent begging from the list. Clause 96 would give the Secretary of State the power to amend this list of trigger offences via secondary legislation.[481]

Clause 98 would amend section 63B of PACE to specify that additional samples can be taken, for example to test for additional substances or where the initial sample is insufficient.

Clause 100 would remove the existing requirements in sections 63B and 63C of PACE and the 2005 act for chief officers to have been 'notified' by the Secretary of State that appropriate drug testing arrangements have been made in their area before conducting drug testing or assessments. This follows Home Office guidance issued in 2011 that advised forces that they did not need to seek Home Office authorisation to conduct drug testing in police detention.[482]

The economic note for the bill states that the "total costs of the policy are estimated to be between £50.6 million and £109.0 million with a central estimate of £71.5 million discounted over 10 years".[483]

481 This would be subject to draft affirmative procedure. See: Home Office, Crime and Policing Bill - delegated powers memorandum (PDF), pp.50-53.

482 Home Office, Introducing Locally Funded Drugs Testing On Arrest, 23 May 2011. See: Crime and Policing Bill – Explanatory notes (PDF), paras 827-828

483 Economic Note 1010 - Policing, Serious & Economic Crime (PDF), p.7

13 Proceeds of crime

Clauses 102 and 103 of the bill would amend the confiscation regime provided for by parts 2 and 4 of the Proceeds of Crime Act 2002 (POCA).

13.1 Background

The Proceeds of Crime Act 2002

The Proceeds of Crime Act 2002 (POCA) sets out the legislative scheme for the recovery of criminal assets. It was intended to:

- ensure that criminals do not profit from their criminal activity;
- deter the commission of further offences; and
- reduce the monies available to criminals to fund further criminal enterprises.

Confiscation following conviction is dealt with by part 2 of POCA.[484] A confiscation order may be made under section 6 if the defendant has been convicted of an offence in the Crown Court or committed to the Crown Court for sentencing following conviction for certain offences.

The Court must also decide whether the defendant has a "criminal lifestyle" and whether they benefitted from their general criminal conduct.

The question of whether the defendant has a criminal lifestyle is determined according the whether the offence they have been convicted of satisfies one of three tests:[485]

- It is an offence listed in schedule 2 (for example drug and other forms of trafficking, money laundering, counterfeiting and blackmail);
- The offence constitutes conduct forming part of a course of criminal activity and the defendant benefitted from it;
- Or, it was an offence committed over a period of at least six months, from which the defendant benefitted.

[484] Parts 3 and 4 govern confiscation in Scotland and Northern Ireland respectively.
[485] Section 75

If the defendant has a criminal lifestyle the confiscation hearing will consider all of their criminal conduct, including conduct which occurred before or after POCA was passed. If they are not found to have a criminal lifestyle, the hearing will only consider the offences for which the defendant was convicted in the proceedings that led to the application for a confiscation order.[486]

A person is deemed to benefit from criminal conduct if they obtain property as a result of or in connection with the conduct.[487] The burden of proving that the defendant has obtained property, and the amount of that property, lies with the prosecution to the civil standard of proof (the balance of probabilities).

If the court decides that the defendant has benefitted from their criminal conduct it must decide on a recoverable amount[488] and make an order requiring them to pay that amount if it would not be disproportionate to do so.[489]

Section 10 requires the court to make certain statutory assumptions for the purposes of making a confiscation order if it decides a defendant has a criminal lifestyle, including:

- that any property transferred after the commencement of proceedings was obtained as a result of general criminal conduct;
- that any property held at the date of conviction was obtained as a result of general criminal conduct; and
- that any expenditure incurred after the commencement of proceedings was met from property obtained from general criminal conduct

POCA further provides for search and seizure powers; powers to apply for production orders and disclosure orders; and allows for the freezing or restraint of assets to prevent dissipation prior to a confiscation order being made.

POCA also enables the recovery of the proceeds of crime in the absence of a conviction via civil recovery, cash seizure, and taxation powers.

Part 5 establishes an extended regime of civil recovery of the proceeds of unlawful conduct. These procedures provide an alternative to confiscation after conviction if it can be shown on the balance of probabilities that there are "reasonable grounds" for suspecting that the assets to be forfeited are the proceeds of unlawful conduct.

[486] Section 6
[487] Section 76
[488] The recoverable amount is an amount equal to the defendant's benefit from the conduct concerned: section 7
[489] Section 6(5)

Law Commission recommendations

In 2018 the Law Commission agreed with the Home Office to review the law on confiscation after conviction in part 2 of POCA.

The aims of the project were to improve the process for making confiscation orders, ensuring the fairness of the confiscation regime, and optimising the enforcement of confiscation orders.

In its final report, published in 2022,[490] the Law Commission noted the long-standing perception that the regime is not effective, citing court statistics from 2021 indicting that of £2.35 billion in outstanding confiscation orders, only £143 million (6.1%) was thought to be recoverable.[491]

However, the Law Commission considered this debt to be an artificial number, reflecting "considerable problems with the operation of the regime, both in terms of the calculation of the orders and in terms of their enforcement".[492]

The Law Commission made numerous recommendations for reform of part 2, including:

- That the objective of part 2 should be put on a statutory footing. This should be "to deprive a defendant of their benefit from criminal conduct, within the limits of their means".[493]
- That confiscation proceedings should be streamlined, by facilitating the exchange of information between the defendant and the prosecution, as well as encouraging them to reach an agreement.[494]
- Improvements to the way the benefit and recoverable amount are determined by the court to enable a more accurate and realistic calculation of the figures that form the basis of a confiscation order.[495]
- The codification of principles for dealing with assets which have been hidden, in order to make the law clearer and more accessible.[496]
- Measures to strengthen the regime for enforcing confiscation orders, including better protection for third party interests, enabling them to make representations at an earlier stage in proceedings.[497]

490 Confiscation of the proceeds of crime after conviction: a final report (PDF), HC 828, Law Com No 410, 2022
491 Para 1.13
492 Para 1.16
493 Part 1
494 Part 2
495 Part 3
496 Part 4
497 Part 5

- Changes to the regime to protect the value of assets in confiscation proceedings aimed at preventing defendants from frustrating the purpose of confiscation proceedings, by dissipating assets before an order is made and enforced.[498]

The previous government responded in October 2023, accepting many of the Law Commission's recommendations and committing to give further consideration to others.[499]

13.2 The bill

Confiscation under POCA: Clause 102, schedules 14 and 15

Clause 102 and schedules 14 and 15 would amend parts 2 and 4 of POCA, applying to England and Wales and Northern Ireland, respectively. They would give effect to the following Law Commission recommendations:

- To introduce a statutory objective for the confiscation regime;
- To better prioritise compensation for victims and legitimate third-party interests;
- To create a procedure for the early resolution of confiscation;
- To make it easier to restrain assets to preserve their value during an investigation;
- To extend the enforcement powers of the magistrates' courts to the Crown Courts;
- To introduce confiscation assistance advisers to enable appropriately qualified persons assist defendants with satisfying orders;
- To allow for the provisional discharge of confiscation orders where there is no realistic prospect of recovery;
- To clarify the courts' approach to hidden assets.

Schedule 14 would insert a new section into part 2 of POCA defining the principal objective:

498 Part 7

499 Government's response to the Law Commission's review of confiscation, Home Office, 23 October 2023

> To deprive the defendant of the defendant's benefit from criminal conduct, so far as within the defendant's means.[500]

Any court or person exercising powers under part 2 of POCA would be required to do so in a way best calculated to further that objective.[501]

The criminal lifestyle provisions in POCA would be amended.[502] The amendments would introduce prosecutorial discretion, by providing that the court should only determine whether the defendant had a criminal lifestyle under section 6 if asked to do so by the prosecutor.[503]

It would also amend section 10 of POCA to widen the application of the "serious risk of injustice" test, which results in the disapplication of the statutory assumptions.[504] Courts would be required to consider all the circumstances of the case when considering whether there would be such a risk.[505]

Further, it would reduce the number of offences necessary to meet the test for conduct forming part of a course of activity in criminal lifestyle cases from three to two.[506] And it would add new offences to schedule 2 of POCA, meaning that the criminal lifestyle provisions automatically apply in relation to two environmental offences and the offence of keeping a brothel for prostitution.[507]

Part 3 of schedule 14 would amend section 7 of POCA, which determines how the recoverable amount is calculated.

It would include additional categories of property which could be ignored when calculating the recoverable amount, recognising that property should not be included if it has been seized, or legitimately divested by the defendant.[508]

It would also insert a new section 9A into POCA, providing for how hidden assets should be calculated.[509] It would require the courts to treat as hidden assets any difference between the defendant's benefit from the criminal

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500 New section 5A, inserted by Schedule 14, para 1

501 Part 1

502 Part 2

503 Paragraph 2

504 As noted above, section 10 requires the court to make certain assumptions for the purposes of making a confiscation order if it decides a defendant has a criminal lifestyle, including: that any property transferred after the commencement of proceedings was obtained as a result of general criminal conduct; that any property held at the date of conviction was obtained as a result of general criminal conduct; and that any expenditure incurred after the commencement of proceedings was met from property obtained from general criminal conduct.

505 The explanatory notes explain that the existing provision has been narrowly construed by the courts so as to apply only to prevent double counting: Explanatory notes to the Crime and Policing Bill 2025-26, para 835.

506 Para 4

507 Para 5

508 Para 6

509 Para 7

conduct[510] and the available amount,[511] unless there are other circumstances that account for the disparity.

It would also amend the definition of "tainted gift,"[512] and terms used to calculate a person's benefit from crime,[513] and codify certain principles established in case law about the value of property. [514] It would provide that where property was partially obtained through criminal conduct, only that proportion of it would be treated as a benefit. It would further insert a new section 80A into POCA to calculate the proportion of the value of property obtained via a mortgage to be treated as a benefit. The explanatory notes state that specific provision is required for mortgages because of the way the transaction is processed.[515]

Part 4 would amend section 13 of POCA, which governs the treatment of priority orders. These are compensation orders, surcharge orders, unlawful profit orders, and slavery and trafficking reparation orders. The amendment would require the court to direct that sums recovered under a confiscation order would be applied to priority orders.[516] The explanatory notes say that this will prioritise the applications of funds to victims.[517]

Part 5 would insert a new section 22A into POCA, allowing for a supplementary compensation direction to be made if it considers that the available amount has increased, meaning that any increased funds can be directed to victims.[518]

Part 6 would make a number of changes to the procedure for confiscation proceedings. It would replace sections 14 and 15 of POCA with a new section 15A, which would require the court to draw up a timetable for confiscation proceedings before the end of the sentencing hearing and give the court more time to vary the sentence imposed on a defendant following confiscation proceedings.[519]

It also provides for a process called the Early Resolution of Confiscation (EROC) process. [520] According to the explanatory notes, this formalises an existing practice, the purpose of which is to fast-track agreed orders and narrow the issues in dispute.[521]

Part 7 of schedule 14 would insert a new section 21A into POCA, allowing for the defendant's benefit to be reconsidered downwards, where the criminally

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510 Section 8
511 Section 9
512 Para 8
513 Para 9 & 11
514 Para 10
515 Explanatory notes to the Crime and Policing Bill 2025-26, para 847
516 Para 12
517 Explanatory notes to the Crime and Policing Bill 2025-26, para 849
518 Para 13. Explanatory notes to the Crime and Policing Bill 2025-26, paras 850-852
519 Para 14
520 Para 15, new section 15B POCA
521 Explanatory notes to the Crime and Policing Bill 2025-26, para 861

obtained property is sold or destroyed, and the value is lower than that previously taken into account.[522]

It would also provide for the provisional discharge of confiscation orders.[523] This would enable orders to be temporarily placed in abeyance where there was no reasonable prospect of recovery. It would retain the possibility of recovery the property as the order could be revoked. According to the explanatory notes, "unlimited enforcement is not viable because it is not without costs ultimately borne by the taxpayer".[524]

Part 8 would amend the regime for the enforcement of confiscation orders.

It would introduce new sections 13ZA and 13ZB into POCA, which would require the courts when making a confiscation order to also make an enforcement plan if there are reasonable grounds to believe that the defendant might default.[525] This would include drafts of orders the court could make in the event of a default, and date for an enforcement hearing.

It would also replace section 35 of POCA with new sections 35A to 35R.[526] These would allow for the Crown Court to enforce confiscation orders where appropriate. The Crown Court would be responsible if the court that made the confiscation order also prepared an enforcement plan or determined that the Crown Court should be responsible.

New section 35I would give the court the power to appoint any person the court thinks appropriate to advise and assist the defendant in satisfying the confiscation order. The explanatory notes explain that this follows a successful pilot scheme and the related Law Commission recommendation.[527]

Certain seizure and collection powers currently exercised by the magistrates' court would also be extended to the Crown Court.[528]

Part 9 would amend the regime under POCA for making restraint orders.

It would codify the "risk of dissipation" test which is currently applied by the courts when considering restraint applications. It would do so by providing that an additional condition that must be met in order to impose a restraint order under section 41 is that there is a real risk that relevant property will be dissipated otherwise.[529] There would be exceptions for legal expenses and reasonable living costs.[530]

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522 Para 16
523 Para 17, new sections 24A, 24B & 24C POCA
524 Explanatory notes to the Crime and Policing Bill 2025-26, 864
525 Para 18
526 Para 19
527 Explanatory notes to the Crime and Policing Bill 2025-26, para 878
528 Paras 20-24
529 Para 25
530 Paras 26 & 27

Part 10 would extend the ability of the police to apply to the Crown Court for a management receivership order. This is the appointment of a person to manage a defendant's property pending their conviction, including selling seized assets in order to preserve their value.[531]

Part 11 would amend a number of provisions relating to appeals in POCA proceedings. According to the explanatory notes, these are intended to clarify and codify existing appeal rights, and do not introduce any new rights of appeal.[532]

Clause 102(2) introduces schedule 15, which makes equivalent provision for Northern Ireland.

Costs and expenses in civil recovery proceedings: Clause 103

Clause 103 would insert a new section 288A into POCA. This would ensure that the court could not order an enforcement authority to pay the costs ('expenses' in Scotland) associated with bringing recovery proceedings. There would be an exception to this if:

- the authority had acted unreasonably in bringing proceedings
- the authority had acted dishonestly or improperly in the course of the proceedings, or
- it would be just and reasonable to make such an order

The explanatory notes say that this final exception provides the courts with a discretion to exercise a 'balance of judgement' in recognition of the fact that civil recovery orders engage the right to peaceful enjoyment of property protected by the European Convention on Human Rights, by permanently depriving a person of their property.[533] The provision ensures the right of access to a court required by article 6 of the Convention.

[531] Para 30

[532] Explanatory notes to the Crime and Policing Bill 2025-26, para 892

[533] Article 1 of protocol 1. Explanatory notes to the Crime and Policing Bill 2025-26, para 896. See also paras 336-345 of the ECHR memorandum accompanying the bill.

14 Police standards and accountability

The bill includes several provisions aimed at improving how investigations into cases of serious police misconduct are handled. In summary:

- Clauses 106 to 107 would reform some of the arrangements for the handling of complaints against the police and the investigation of conduct matters.
- Clause 108 would place the IOPC's Victims' Right to Review policy on a statutory footing.
- Clause 109 creates a power for the Secretary of State to make rules enabling a statutory route of appeal to the police appeals tribunal for chief officers.

These measures would apply only in England and Wales.

14.1 Investigation procedures

- Clauses 106 to 107 would reform the arrangements for the handling of complaints against the police and the investigation of conduct matters.
- Clause 108 would place the IOPC's Victims Right to Review policy on a statutory footing.

Background

A series of high-profile cases, reviews and inspections have raised serious concerns about standards and culture in policing.

Overall confidence in the police for "all people" fell from 68% in 2022/23 to 65% in 2023/24, as reported in the Crime Survey for England and Wales.[534] In 2023/24 64% of women agreed they had confidence in the police, with 58% of respondents from a Black/African/Caribbean/Black British ethnic background agreeing they had confidence in the police.[535]

[534] Home Office, Equality Impact Assessment [EIA] – Crime and Policing Bill Policing Measures, accessed 5 March 2025

[535] Home Office, Equality Impact Assessment [EIA] – Crime and Policing Bill Policing Measures, accessed 5 March 2025

On 5 September 2022, an armed police officer (then referred to as officer NX121) shot and killed Chris Kaba. The shooting happened during an operation to stop the vehicle Mr Kaba was driving in South London.

The police must make a referral to the Independent Office for Police Conduct (IOPC) if someone is in custody or under arrest, or had otherwise been in contact with the police, at the time of their death or serious injury.[536]

The IOPC investigated Mr Kaba's death. In March 2023 they referred a file to the Crown Prosecution Service (CPS) for a decision over whether NX121 should be charged.[537] On 20 September 2023 the CPS authorised a murder charge.[538]

On 24 September 2023 the Home Office launched a review of the investigatory arrangements which follow police use of force and police driving related incidents.[539] This followed concerns that officers had lost confidence in the accountability system, deterring some from carrying arms or taking other action needed to protect the public.[540] The Home Office published terms of reference on 24 October 2023.[541]

On 8 March 2024, the officer was identified as Sergeant Martyn Blake.[542] On 21 March 2024, the then Home Secretary issued a written ministerial statement updating Parliament on progress with the review and setting out interim findings.[543] The Home Secretary announced three immediate changes to the current accountability arrangements:

1. Raise the threshold which is used to determine whether the IOPC refer a case to the CPS, to improve the timeliness of investigations.

2. Relax the restrictions preventing the CPS from bringing criminal proceedings until the IOPC produces a final report.

3. Solidify victims' rights by formalising the IOPC's existing Victims' Right to Review (VRR) policy in legislation.[544]

536 Independent Office for Police Conduct, Factsheet – Fatal shooting of Chris Kaba, accessed 5 March 2025

537 Independent Office for Police Conduct, Factsheet – Fatal shooting of Chris Kaba, accessed 5 March 2025

538 Crown Prosecution Service, CPS authorises murder charge against police officer following death of Chris Kaba, 20 September 2023

539 Home Office, Review of investigations after police use of force: terms of reference, 24 October 2023

540 BBC News, Met Police: London still facing armed officer shortage - Sir Mark Rowley, 26 September 2023

541 Home Office, Review of investigations after police use of force: terms of reference, 24 October 2023

542 Independent Office for Police Conduct, Statement following CPS decision to charge Met officer with the murder of Chris Kaba, 20 September 2023

543 UIN HCWS369

544 UIN HCWS369

Clauses 106 to 108 would give effect to these proposals. The previous government tabled them as amendments to the Criminal Justice Bill at report stage.[545] When the 2024 election was called, that bill fell.[546]

After Sergeant Blake's acquittal on 22 October 2024, the Home Secretary Yvette Cooper made an oral statement to the House of Commons, announcing that the Labour government would take forward the three measures.[547]

The Home Secretary also announced that the government would introduce a presumption of anonymity for firearms officers who are charged with offences relating to, and committed during, their duties, up to the point of conviction. The government intends to bring forward this presumption of anonymity by an amendment to the Crime and Policing Bill in the House of Commons.[548]

The bill: Raising threshold for referral to CPS

Clause 106 of the Crime and Policing Bill would relax the restrictions which prevent the CPS from bringing criminal proceedings against an officer until the IOPC's investigation is concluded.

According to the government, this change aims to reduce the length of time an officer is under investigation before criminal proceedings can be brought, and would mean that an IOPC investigation report may be submitted to the CPS before the final report has been completed.[549]

Clause 106 would enable an accelerated investigation procedure in respect of criminal conduct, by amending paragraph 20 of schedule 3 of the Police Reform Act 2002, which prevents criminal proceedings from being brought before completion of the IOPC's final report on an investigation under schedule 3 (save in exceptional circumstances).[550]

Clause 106 would amend paragraph 20 so that criminal proceedings may be brought before completion of a final report where the Director General of the IOPC, or the appropriate authority (as the case may be) has made a determination under new paragraph 20(1)(za).[551] To do this, the Director General of the IOPC, or the appropriate authority):

- must consider that the investigation at the time of the determination indicates that there is a realistic prospect of conviction of a criminal offence against the person to whom the investigation relates;

545 See new clauses 74 to 76
546 Crime and Policing Bill: Explanatory notes, 25 February 2025
547 Home Office, New reforms to boost confidence in police accountability system, 24 October 2024
548 Crime and Policing Bill: Explanatory notes, 25 February 2025
549 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025
550 Crime and Policing Bill: Explanatory notes, 25 February 2025
551 Crime and Policing Bill: Explanatory notes, 25 February 2025

- must consider that it is appropriate for the matter under investigation to be considered by the Director of Public Prosecutions (DPP), including circumstances where it is not considered in the public interest to refer matters to the CPS; and

- must have regard to the Code for Crown Prosecutors issued under section 10 of the Prosecution of Offences Act 1985 in considering whether the conditions are met.[552]

Clause 107 would amend schedule 3 to the Police Reform Act 2002, to change the threshold for IOPC referrals to the Crown Prosecution Service (CPS) so that it aligns with the test the CPS uses for subsequent charging decisions, namely whether there are "reasonable grounds to believe the person has committed a criminal offence".[553]

Subsection (1) would amend paragraph 23 of schedule 3 to the 2002 act. Here, the Director General must notify the DPP of the investigation if both:

- the report indicates that a criminal offence may have been committed (paragraph 23(2A); and

- the Director General considers it appropriate to refer the matter to the DPP (paragraph 23(2B)).

Subsection (1)(a) would substitute paragraph 23(2A), so that the first condition the Director General must consider is that the report indicates that there is a realistic prospect of conviction of a criminal offence against the person to whom the investigation relates.

New paragraph 23(2C) clarifies that considerations as to whether it is appropriate for a matter to be referred to the DPP include circumstances where it is not considered in the public interest to refer matters to the CPS.

New paragraph 23(2D) would impose a duty on the Director General to have regard to the Code for Crown Prosecutors issued under section 10 of the Prosecution of Offences Act 1985 when considering whether the conditions set out in paragraph 23(2A) and (2B) are met.[554]

Further amendments set out the actions to be taken by the appropriate authority when it considers a report on an investigation carried out by the appropriate authority on its own behalf or directed by the IOPC. The conditions under which the appropriate authority must notify the DPP are identical to those applicable to the Director General of the IOPC. If both conditions are met the appropriate authority must notify the DPP of the investigation.

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552 Crime and Policing Bill: Explanatory notes, 25 February 2025

553 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025

554 This code sets out the general principles crown prosecutors should follow when deciding whether to prosecute a case.

Subsection (4) states that the changes made by this clause will only apply to those matters in respect of which a complaint was made, or that have come to the attention of the IOPC on or after the day the clause comes into force.[555]

The government's Equality Impact Assessment notes that:

> people from a Black ethnic background feel more negatively towards the police than those from a white background and the changes may widen that gap if people from a Black ethnic background feel less able to hold the police to account. The Department considers this indirect discrimination to be justifiable on the basis that the changes pursue a legitimate aim.[556]

However, the government has stated that raising the threshold should "not diminish police accountability, as the CPS will still retain responsibility for the decision on whether to prosecute, based on the full code test". The change "has been thoroughly considered with relevant stakeholders, to ensure a balance is struck between ensuring the police can do their job to keep the public safe and ensuring operational guidelines are complied with and officers act within the law".[557]

The government intends that these changes should "encourage earlier co-operation between the IOPC and CPS and should improve confidence in the supporting evidence of cases which are referred".[558] For the government, "enabling the swifter conclusion of investigations is in the interests of both officers and the public".[559]

The bill: IOPC Victims' Right to Review

Clause 108 would place the IOPC's Victims' Right to Review (VRR) policy on a statutory footing.[560]

The VRR enables complainants and their families to challenge decisions by the IOPC not to refer a matter to the CPS for a charging decision. The initial IOPC decision not to refer is subjected to an independent review by an IOPC officer unconnected to the original investigation.

Clause 108 would insert a new paragraph 23A in schedule 3 to the Police Reform Act 2002, providing a right for victims to request a review of a decision by the Director General of the IOPC not to refer a case to the DPP, on the basis that the conditions in paragraph 23(2A) or (2B) are not met. This is

555 Crime and Policing Bill: Explanatory notes, 25 February 2025
556 Home Office, Equality Impact Assessment [EIA] – Crime and Policing Bill Policing Measures, accessed 5 March 2025
557 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025
558 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025
559 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025
560 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025

"intended to place on a statutory footing the existing IOPC scheme on victims' right to review".

New paragraph 23A(1) states that the VRR would apply to investigations where:

- an officer whose conduct is investigated was informed that the investigation was being treated as concerning a conduct constituting or involving the commission of a criminal offence; and
- where the Director General intends to make a determination that one of the conditions in paragraph 23(2A) or (2B) are not met.

New paragraph 23A(2) would place a duty on the Director General to enable victims to request that the proposed determination is reviewed within a set timeframe.

New paragraph 23A(3) would enable the Director General to determine persons or class of persons who should be considered victims for the purposes of this provision, and timeframes for the review to take place.[561]

The government intends that this measure will encourage greater confidence and representation in the accountability system. For the government:

> enshrining the Victims' Right to Review in legislation will enhance victims' rights and send a clear signal that the government supports checks and balances in the police misconduct system [...]
>
> This change will also provide a mechanism to hold the IOPC accountable for delivery, which should further encourage trust and confidence in the system amongst all involved [...]
>
> In light of changes being made to the referral threshold, which may reduce overall referrals from the IOPC to the CPS, it is key that the public feel their right to review IOPC decision-making is upheld, and we believe that this change will encourage greater transparency in the system.[562]

14.2 Police appeal tribunals

- Clause 109 would create a power for the Secretary of State to make rules enabling a statutory route of appeal to the police appeals tribunal for chief officers.

[561] Crime and Policing Bill: Explanatory notes, 25 February 2025

[562] Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025

Background

Two forms of behaviour can currently result in a police officer being dismissed:

- gross misconduct, handled under the Police (Conduct) Regulations 2020; and
- unsatisfactory performance/gross incompetence, handled under the Police (Performance) Regulations 2020.[563]

Officers with a case to answer for gross misconduct can be referred to a misconduct hearing. These are now heard by a panel chaired by an officer or former officer of above the rank of chief superintendent or police staff equivalent (or, where the officer concerned is a senior officer, a panel composed in accordance with regulation 28 of the Police (Conduct) Regulations 2020, as amended). [564]

Where there is sufficient evidence (on the balance of probabilities) of gross misconduct and it is in the public interest for the individual to cease to be an officer without delay, officers can be referred to a fast-track process known as an accelerated hearing.

Police officers are office holders, rather than employees. Therefore, they cannot, in most circumstances, pursue unfair dismissal claims at the Employment Tribunal. Instead, police offices have a statutory right of appeal under the Police Act 1996 to the Police Appeals Tribunal (PAT).

Any officer against whom a finding of misconduct or gross misconduct has been made at a misconduct hearing, may appeal to PAT on the following grounds:

- the finding or decision to impose disciplinary action was unreasonable; or
- that there is evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision on disciplinary action; or
- that there was a breach of the procedures set out in the Conduct Regulations, the Complaints and Misconduct Regulations or part 2 of the 2002 Act or unfairness which could have materially affected the finding or decision on disciplinary action.

563 Regulation 13 of the Police Regulations 2003 allows for dismissal of officers in their probationary period who are deemed "not fitted, physically or mentally, to perform the duties of his office, or […]not likely to become an efficient or well conducted constable".

564 Defined as an officer above the rank of Chief Superintendent.

Chief officers currently have no statutory right to appeal decisions by misconduct panels concerning their force's officers. They can only challenge the outcome of a misconduct hearing through judicial review.

On 18 October 2022, the then Policing Minister, announced a review into the process of police officer dismissals.[565] The findings of the review were published on 18 September 2023. Its recommendations included:

- a presumption for dismissal in cases of proven gross misconduct,
- certain offences conviction of which automatically amount to gross misconduct,
- a streamlining of the performance system,
- a clarified route of dismissal for those who fail vetting; and
- a statutory route of appeal for chief officers.[566]

Metropolitan Police Commissioner Sir Mark Rowley welcomed the recommendations for an increased role for chief officers, saying he was "grateful to the Government for recognising the need for substantial change that will empower chief officers in our fight to uphold the highest standards and restore confidence in policing".[567] Sir Mark has made repeated calls for chief officers to have the "final say" on who serves as officers in their forces.[568]

However, the Police Federation of England and Wales National Chair criticised the recommendations as "a huge retrograde step":

> A return to the dark days, a return to kangaroo courts, whereby an officer is already guilty in the eyes of the chief officer before any evidence is heard, and they already know what outcome they want to see, is deeply concerning.
>
> There may be an independent panel behind them, with a legally qualified person, and the outcome is determined by a majority panel, but giving chief constables the power to challenge could see them appeal until they get the outcome they want, which is not necessarily in the best interest of those involved in the case.[569]

565 HC deb 720 18 October 2022

566 Home Office, Police officer dismissals: Home Office review, September 2023

567 Metropolitan Police, Response to Home Office police dismissals review, 31 August 2023

568 See for example 'Give me more power to sack officers - Met chief', BBC News, 6 April 2023 and 'Met Police chief Mark Rowley slams Home Office for dragging heels over police dismissal reforms', Evening Standard, 18 July 2023

569 Police Federation, Home Office police dismissal process changes are a 'huge retrograde step', 31 August 2023

Most of the review's recommendations can be implemented via secondary legislation.[570] However, the statutory route of appeal for chief officers requires primary legislation.

The Criminal Justice Bill 2023-24, which fell at the 2024 election, contained provisions enabling the Secretary of State to make rules that would allow a chief officer to appeal to the PAT against decisions relating to members of their force.

It would also have enabled the Secretary of State to make rules enabling a Police and Crime Commissioner (PCC) to appeal to the PAT against decisions relating to a chief officer (or former chief officer) for their police force area.

The provision to allow for a PCC to appeal to the PAT against decisions relating to a chief officer was relatively contentious. Jess Phillips MP stated that "disciplinary procedures must be independent and not subject to political influence".[571] She moved an amendment that would give the IOPC the power to refer a decision regarding a chief officer for review, rather than a PCC.

The then Policing Minister stated that PCCs already had the power to appoint and dismiss chief officers, and that the power would only be to refer a case to the PAT, which will then hear the appeal independently.[572]

The Labour government has brought forward these measures again, under clause 109 of this bill. Under the proposals:

- A chief constables will be able to bring an appeal when they disagree with either the finding of the misconduct hearing (whether it is proven that the officer has committed misconduct or gross misconduct) or the outcome (the sanction issued, such as a written warning).[573]
- Local policing bodies would have the right appeal the outcome of a misconduct hearing in relation to the chief officer of their force.[574]
- The IOPC would have the right of appeal in circumstances where it presented the misconduct hearing.[575]

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570 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025

571 PBC Deb 25 January 2024 c437

572 PBC Deb 25 January 2024 , c440

573 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025

574 Local policing bodies, generally police and crime commissioners and deputy mayors, have responsibility for the appointment of chief officers, as well as matters relating to their performance, conduct and suspension. See the Library briefing, Police and Crime Commissioners (October 2024), section 2.4 for more information.

575 The IOPC may, instead of the appropriate authority, present a misconduct hearing or accelerated misconduct hearing in specific circumstances, see regulation 24, Police (Conduct) Regulations 2020Crime and Policing Bill: Explanatory notes, 25 February 2025.

The government anticipates that there "will be many cases" where chief constables, local policing bodies or the IOPC will want to challenge the decisions of misconduct panels and is "currently undertaking a process to identify and appoint additional Police Appeals Tribunal Chairs to support any increased demand." [576]

The bill

Clause 109 would create a power for the Secretary of State to make rules enabling a statutory route of appeal to the PAT for chief officers (in respect of police officers, or former police officers, in their force) and local policing bodies (in respect of chief officers, or former chief officers, in their force area).[577]

The clause would make several amendments to the Police Act 1996:

- New section 85(1A) would allow a chief officer of police to appeal against a decision relating to a member or former member of the chief officer's force, or special constable or former special constable of their police area.

- New section 85(1B) would enable the Secretary of State to make rules permitting a local policing body to appeal to the police appeals tribunal when the decision relates to the chief officer, or former chief officer, of police for whom it is the local policing body.

- New section 85(1C) would enable the Secretary of State to make rules permitting the IOPC to appeal to the police appeals tribunal in circumstances in which the IOPC has presented the case at the relevant hearing.

- Section 85(2) of the 1996 act would be amended, so that rather than referring to the "appellant", it refers to the "person to whom the appeal relates". This provision aims to ensure that the legislation works both for the current route of appeal (by officers themselves) and for the new routes of appeal (by chief officers or local policing bodies). [578]

Subsection (4) would amend paragraph 1 of schedule 6 to the 1996 act, which sets out the composition of the panel which will hear an appeal by a senior officer (officer above the rank of chief superintendent), or former senior officer. It aims to ensure that the composition of the police appeals tribunals' panel applicable to senior officers is consistent in circumstances where the

576 Home Office/Ministry of Justice, Crime and Policing Bill: Policing accountability and integrity factsheet, 25 February 2025

577 Here "police officers" means members of a police force and special constables.

578 Subsection (6) also makes consequential amendments to sub-paragraph (2) and (3) of paragraph 7 of Schedule 6 to the 1996 Act so that rather than referring to the "appellant", it refers to the "person to whom the appeal relates" for the reasons set out above.

chief officer or local policing body are the appellant, and in circumstances where the officer concerned by the decision is the appellant.

Subsection (5) would amend paragraph 2 of schedule 6 to the 1996 act, which sets out the composition of the panel which will hear an appeal by a non-senior officer (officer of the rank of chief superintendent or below). Again, the aim is to ensure that the composition of PAT panels applicable to non-senior officers is consistent in circumstances where the chief officer is the appellant, and in circumstances where the officer concerned by the decision is the appellant.

Subsection (6)(c) would introduce the new paragraph 7(1)(4), which would set out that where a PAT makes a new decision to dismiss (replacing the original decision not to dismiss), the tribunal's new decision takes effect from the date on which it is made. This ensures that an officer whose sanction is increased by the police appeals tribunal further to an appeal by their chief officer (or local policing body or the IOPC), resulting in the officer's dismissal, that officer is dismissed from the date of that decision by the police appeals tribunal, and not from the date of the original decision at a misconduct hearing. This avoids an officer dismissed at a later date by the PAT being held liable for their pay between the original decision date and the subsequent dismissal decision by the tribunal.

Subsection (7) would amend paragraph 9 of schedule 6 to the 1996 act, which provides that, in appeals by the officer concerned, the costs of the appeal would be met by the appellant, unless the PAT directs that the whole, or part, of their costs should instead be met by the respondent. In such appeals, the respondent is responsible for its own costs. Subsection (7) would also insert new paragraphs 9 and 10, which covers the costs in appeals by the chief officer or local policing body. In such appeals, the appellant is responsible for its own costs. The respondent is also responsible for its own costs, unless the police appeals tribunal directs otherwise.

Subsection (7) would also insert new paragraph 11, which covers the costs in appeals by the IOPC. In such appeals, the IOPC is responsible for its own costs, unless the police appeals tribunal directs otherwise, except in cases in which the IOPC and appropriate authority had agreed that the IOPC should present the case from which the appeal arose. In which case, the appropriate authority is responsible for the appellant's costs. The respondent is again responsible for its own costs, unless the police appeals tribunal directs otherwise.

Subsection (9) would make equivalent provision to the changes being made to the power in section 85 of the 1996 act to section 4A of the Ministry of Defence Police Act 1987 (the MDP Act). The MDP Act provides the statutory basis for the Ministry of Defence Police powers and defines its jurisdiction.

15 Terrorism and national security

The bill would introduce measures aimed at tackling youth radicalisation. In summary:

- Clauses 110 to 121 would introduce new youth diversion orders, a counter-terrorism risk management tool which would be available only with respect to individuals under the age of 21.
- Clause 122 would widen the definition of offensive weapon in the Terrorism Prevention and Investigation Measures Act 2011 and the National Security Act 202.
- Clause 123 would widen the offence of displaying or wearing an article associated with a proscribed organisation so that it also applies in prisons and other places of detention, and enable police to seize any article displayed in a public place which arouses a reasonable suspicion that an individual is a supporter or member of a proscribed organisation.

15.1 Background

Legal and policy framework

The government's overarching counter-terrorism strategy – CONTEST – is made up for four main strands: Prevent, Pursue, Protect and Prepare.[579]

The principal enactments relating to countering terrorism are the Terrorism Act 2000 ; the Anti-terrorism, Crime and Security Act 2001 ; the Terrorism Act 2006; the Counter-Terrorism Act 2008; the Terrorist Asset-Freezing etc Act 2010; the Terrorism Prevention and Investigation Measures Act 2011; and the Counter-Terrorism and Security Act 2015.

These have been amended and supplemented by several further pieces of legislation introduced in recent years in response to terrorist attacks.

The Counter-Terrorism and Border Security Act 2019 introduced a number of new terrorism offences and provided for longer prison sentences for certain existing offences.

[579] CONTEST: The United Kingdom's Strategy for Countering Terrorism 2023, CP 903

Following the attacks at Fishmongers Hall in November 2019 and in Streatham in February 2020 the Terrorist Offenders (Restriction of Early Release) Act 2020 was passed as emergency legislation to change release arrangements for certain terrorist offenders, meaning that they would spend longer in prison.

The Counter-Terrorism and Sentencing Act 2021 made further changes in relation to the sentencing of terrorist offenders, increasing maximum sentences for certain offences and introducing a new "serious terrorism sentence" which the courts are required to impose for specified offences. It also revised the scheme for imposing Terrorism Prevention and Investigation Measures (TPIMs), lowering the standard of proof, expanding the range of measures available and removing time limits.

Independent reviewer of terrorism legislation

The independent reviewer of terrorism legislation, a roll currently fulfilled by Jonathan Hall KC, is required to annually review the operation of the Terrorism Acts, including:

- definition of terrorism
- proscribed organisations
- terrorist property
- terrorist investigations
- arrest and detention
- stop and search
- port and border controls
- terrorist offences
- TPIMs
- Terrorist asset-freezing

Jonathan Hall KC's annual reports for 2021 and 2022 included a number of recommendations for changes to the law, including:

- a potential new model, to be available for children only:
  - The measure would take the form of a statutory court-imposed injunction, enabling the imposition of conditions, backed up by arrest and penal sanction for breach. ·
  - The types of measures would include positive interventions (for example, mandated attendance at sessions with an intervention

provider) and restrictions (for example, around phone or device usage).

- The statutory threshold would be the existence of terrorism material where, owing to the presence of that material, there were reasonable grounds to suspect that the individual would be drawn into using or encouraging acts of violence.

- It would not be badged as a counter-terrorism measure and would be suitable for those who had been drawn into school shooting fantasies, as well as those who (if prosecuted) might be considered to have a terrorist mindset.[580]

- Amending the TPIM Act 2011 to enable the Home Secretary to prohibit the possession of unapproved knives or bladed articles.[581]

- Amending section 13 of the Terrorism Act 2000 to allow the seizure of any article if the constable reasonably suspects that it has been displayed in such a way or in such circumstances as to arouse reasonable suspicion that a person is a member or supporter of a proscribed organisation.[582]

Measures to tackle radicalisation

Following the general election, the government initiated a 'counter-extremism sprint' in July 2024. This was aimed at ensuring the UK's strategies and systems to prevent radicalisation are functioning effectively and addressing the range of threats faced by the country.

In December 2024 the government announced a series of measures aimed at tackling youth radicalisation.

The Home Secretary set out the changing threat picture from terrorism, including:

- An increasing number of cases where the ideological driver is unclear or mixed

- The internet facilitating increasingly easy access to extremist material and like-minded individuals

- An increasing number of young people being drawn towards violent ideologies

580 Jonathan Hall KC, Annual report on the operation of the Terrorism Acts 2021 (PDF), March 2023, para 7.88

581 Jonathan Hall KC, Annual report on the operation of the Terrorism Acts 2022 (PDF), November 2024, para 8.40

582 As above, para 9.33

- An increasing number of individuals or small groups acting without direct support or instruction from a wider terrorist network
- An increasingly complex and interconnected threat picture, with terrorist threats interacting with state threats of 'unprecedented scale and severity'

She set out the initial steps arising from the counter-extremism sprint in five areas. These included:

- an increase in funding for counter-terrorism policing and the single intelligence account (which includes MI5, MI6 and GCHQ)
- strengthening of the Prevent programme
- the creation of a Prevent commissioner role
- implementing aspects of the Online Safety Act 2023 aimed at tackling online radicalisation, and
- the creation of youth diversion orders.

In relation to youth diversion orders, the Home Secretary highlighted the fact that, according to the latest statistics, 13% of those being investigated by MI5 for involvement in terrorism are under 18, a threefold increase in the last three years. Further, 11 to 15-year-olds now make up 40% of all referrals into Prevent.

She cited a joint call to action from counter-terrorism policing, working with five eyes counterparts, which said that they are "increasingly concerned about the radicalisation of minors, and minors who support, plan or undertake terrorist activities".[583]

She said that the government intended to introduce this new counter-terrorism risk management tool, specifically designed for young people, which would build on a recommendation from Jonathan Hall KC.[584]

15.2 The bill chapter 1: Youth diversions orders

Clauses 110 to 121 would introduce youth diversion orders (YDOs). Therse are described as "a new counter-terrorism risk management tool available for individuals under the age of 21".[585]

583 The 'Five Eyes' is an alliance between the United Kingdom, the United States of America, Canada, Australia and New Zealand. See: Young people and violent extremism: a call for collective action, Counter-terrorism policing, December 2024

584 Preventing radicalisation, cWS25-28, 17 December 2024

585 Explanatory notes to the Crime and Policing Bill 2025-26, para 954

The police would be able to apply to a court[586] for a YDO for a person (the 'respondent') between the age of 10 and 21 in England, Wales and Northern Ireland, and 12 and 21 in Scotland.[587]

To grant an order the court would have to be satisfied on the balance of probabilities that the person had committed a terrorism offence, an offence with a terrorist connection, or had engaged in conduct likely to facilitate the commission of a terrorism offence.[588] The court would also need to consider it necessary to make the order to protect the public from a risk of terrorism or other serious harm.[589]

Serious harm in this context would mean harm arising from conduct, or the threat of conduct, anywhere in the world:

- which involves serious violence against a person,
- that endangers the life of another person, or
- creates a serious risk to the health or safety of the public or a section of the public[590]

An order could require or prohibit any conduct on the part of the respondent, including in relation to the people with whom they communicate or associate, the manner in which they communicate or associate, and their use of electronic devices.

It could also require them to attend appointments or participate in activities, to provide information, or to adhere to curfew requirements.

Prohibitions and requirements could only be imposed if the court considered them necessary to protect the public from terrorism or other serious harm, and would need to avoid conflict with religious beliefs, educational commitments and other legal obligations, so far as possible.

The YDO would need to specify how long it had effect, up to a maximum of 12 months, and how long any specific prohibitions or requirements had effect.[591]

Before applying for a YDO (or to vary or discharge one) the police would be required to consult with the following authorities:

586 A youth court or magistrates court in the England and Wales depending on whether the person was under 18 at the time of the application, and a Sherriff's court in Scotland.

587 Clause 110(1). The court would have the power to make an order on application requiring the anonymity of the respondent: clause 120.

588 Terrorism offence and offence with a terrorist connection are defined by reference to sections 41 and 42 of the Counter-Terrorism Act 2008.

589 Clause 110(2)

590 Clause 111

591 Clause 112

- In England and Wales, the youth offending team, where the respondent was under 18;
- In Northern Ireland, the Youth Justice Agency, where the respondent was under 18;
- In Scotland, the Lord Advocate in all cases. It would also be necessary to notify the Principal Reporter and Scottish Children's Reporter Administration.[592]

It would be possible to make an application without giving notice to the respondent, in which case the court would be able to adjourn proceedings and make an interim order, and the duty to consult would not apply. The explanatory notes say that these applications should only be made in exceptional or urgent circumstances and the police would have to give evidence as to why it was necessary.[593] There would still be a duty to consult before proceeding to a full hearing.[594]

An interim YDO would be available to the court when considering any application for a YDO (whether made with or without notice). The court would have the same power to prohibit conduct via an interim YDO but could only require the production of information.[595]

The police or the respondent would be able to apply for an order to be varied or discharged. After hearing from the parties the court would be able to make any order varying or discharging the order it considered appropriate, including

- adding a prohibition or requirement;
- extending the period for which one had effect; and
- extending the effect of the order for up to six months (on up to two occasions)[596]

The police and the respondent would be able to appeal to the Crown Court (or Sheriff Appeal Court in Scotland) against a YDO, an interim YDO, or a decision to vary or discharge a YDO.[597]

It would be an offence to breach a YDO without a reasonable excuse. The offence would carry a maximum sentence of six months for a defendant under the age of 18, or two years following a conviction on indictment for a defendant over the age of 18.[598]

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592 Clause 113
593 Explanatory notes to the Crime and Policing Bill 2025-26, para 968
594 Clause 114
595 Clause 115
596 Clause 116
597 Clause 117
598 Clause 118

15.3 The bill chapter 2: Other measures

Terrorism and state threat prevention and investigation measures: Clause 122

The Terrorism Prevention and Investigation Measures Act 2011 allows the Home Secretary to impose terrorism prevention and investigation measures (TPIMs) on an individual believed to be involved in terrorism, where prosecution is not feasible. The National Security Act 2023 contains an equivalent power applicable to those believed to be involved in 'foreign power threat activity'.

One of the measures that can be imposed under both pieces of legislation is a prohibition on possessing offensive weapons, defined as "an article made or adapted for use for causing injury to the person, or intended by the person in possession of it for such use (by that person or another)".[599]

Clause 122 would expand the definition to include corrosive substances[600] and motor vehicles.

Wearing or displaying articles in support of a proscribed organisation: Clause 123

Section 13 of the Terrorism Act 2000 makes it an offence to wear clothing or carry or display articles in public in such a way or in such circumstances as arouse reasonable suspicion that an individual is a member or supporter of a proscribed organisation.[601]

Clause 123 would amend section 13 to create a new offence covering the same conduct on "relevant premises": prisons and other premises associated with the custody of offenders.

It would also amend the associated seizure power to make it available in relation to the new offence, and to permit police to seize an article to prevent its ongoing display in public. The explanatory notes say that the intention of the amendment is to enable the police to seize and article even without an investigation into a possible offence:

> In practice, this would, for example, enable the seizure of a flag or poster which arouses reasonable suspicion the individual who displayed it was a member or supporter of a proscribed organisation, but where there is no

599 Para 6A, Schedule 1 of the TPIMA 2011 & para 7, schedule 7 of the NSA 2023

600 As defined by the Offensive Weapons Act 2019.

601 Under the Terrorism Act 2000, the Home Secretary can proscribe an organisation if they believe it is "concerned in terrorism": section 3. For further information see library briefing Proscribed terrorist organisations (2024).

evidence to connect the display of the article with a specific individual (e.g. where it has been abandoned but is on display).[602]

Clause 123 would also provide for a new power for police to destroy seized articles, and a power for service police to seize and destroy articles on service custody premises.

Management of historic terrorist offenders: Clause 124 and schedule 16

Part 4 of the Counter-Terrorism Act 2008, as amended by the Counter-Terrorism and Sentencing Act 2021, requires the courts to consider whether there is a terrorist connection to any offence with a maximum sentence of more than two years. A terrorist connection leads to an aggravated sentence, notification requirements, and powers of urgent arrest and personal search. These notification requirements and search and arrest powers do not apply to a person who committed a terrorism connected offence before the commencement of the 2008 act in 2009, or who committed one between 2009 and 2021 which was not included on a list of specified offences in the original 2008 act.

Clause 124 and schedule 16 would insert new schedules 4A and 6A into the 2008 act and make other consequential amendments.

New schedule 4A would enable an 'authorised person' (the Secretary of State or a police officer of specified rank) to apply for a "domestic offence notification order". The effect of a domestic notification order would be to apply the notification requirements provided for by part 4 of the 2008 act to those convicted of offences with a terrorist connection before 2021.

New schedule 6A would enable the court to make service offence notification orders. These are the equivalent of domestic offence notification orders for service offences.

Management of terrorist offenders

Sentences for breaching foreign travel restriction order: Clause 125 and schedule 17

Schedule 15 to the Counter-Terrorism Act 2008 provides for foreign travel restriction orders. These are orders restricting foreign travel of those to whom notification requirements apply as a result of a conviction for an offence with a terrorist connection.

Paragraph 15 of schedule 15 makes it an offence to breach a foreign travel restriction order, with a maximum sentence on indictment of five years.

602 Explanatory notes to the Crime and Policing Bill 2025-26, para 995

Clause 125 and schedule 17 would amend various pieces of legislation applying to England and Wales, Northern Ireland and Scotland to enable the offence to be covered by existing regimes which govern the sentencing, restricted release and management on licence of terrorist offenders.

According to the explanatory notes, this will ensure consistency with other terrorism offences carrying a maximum penalty of more than two years.[603]

Terrorism sentences with a fixed licence period in Northern Ireland: Clause 126

Clause 126 would amend the Criminal Justice (Northern Ireland) Order 2008 to ensure consistency for this type of sentence with the equivalent powers in England and Wales.

[603] Explanatory notes to the Crime and Policing Bill 2025-26, para 1016

16 Other provisions

16.1 International law enforcement data-sharing agreements

Background

UK law enforcement agencies can share data with overseas law enforcement partners to facilitate cooperation on international crime.

The UK has several international and bilateral agreements with overseas partners to facilitate mutual assistance in criminal investigations, which often include provision for the sharing of data. Examples of agreements include:

- part 3 of the Trade and Cooperation Agreement, which governs law enforcement and judicial cooperation between the UK and the EU. The National Crime Agency and Europol have agreed a working and administrative arrangement (PDF) to further operationalise these principles.
- the 'Harare Scheme' for mutual assistance in criminal matters with Commonwealth nations.

The Home Office has published guidance on mutual legal assistance and provides a list of international agreements that the UK is party to. The College of Policing, the policing standards body, has published guidance for UK police forces on international policing, including on handling and making requests for mutual legal assistance.

Clauses 127 to 128 of the bill would allow for the government and respective devolved administrations to make regulations to implement an international law enforcement data sharing agreement.

The government states that the power would enable law enforcement agencies to implement the technical and operational detail of international agreements, and allow for a "swifter implementation of international law enforcement information sharing agreements than if Parliament was required to utilise primary legislation to enact such implementing provisions."[604]

[604] Crime and Policing Bill Delegate Powers Memorandum (PDF), p.60

It suggests this would be useful where opportunities arise for international law enforcement to strike agreements to share IT systems or have direct access to certain databases:

> One example envisaged in relation to new international law enforcement information sharing agreements, is an agreement enabling the reciprocal exchange of law enforcement alerts. Such alerts would contain information about a particular person or object that are of interest or under investigation by law enforcement authorities. The agreement would enable a data sharing process where international partners' relevant authorities can search against a UK 'alert store' containing such data. UK law enforcement agencies would have a similar ability to search the platforms of international partners and access relevant data.[605]

In the previous Parliament, the government sought to introduce these measures through the Data Protection and Digital Information Bill(2) 2023/24. The bill fell when Parliament was dissolved for the 2024 general election. Some aspects of the bill have been reintroduced under the Data (Use and Access) Bill [HL] (2024-25), which had its second reading in the House of Commons on February 2025.

The provisions relating to international law enforcement have been reintroduced into the Crime and Policing Bill.

The bill

Clause 127(1) would allow for the 'appropriate national authority' to issue regulations "for the purpose of, or in connection with, implementing an international agreement so far as relating to the sharing of information for law enforcement purposes".

Clause 127(3) states that regulations made under the section would not contravene data protection legislation (meaning the Data Protection Act 2018) or authorise disclosure prohibited under the Investigatory Powers Act 2016.

Clause 28 specifies that 'appropriate national authority' means the Secretary of State. It could also mean relevant ministers in Scotland, Northern Ireland and Wales, where regulations contain only provisions which relate to the legislative authority of the respective country.

Regulations would made under negative procedure.

[605] Crime And Policing Bill Explanatory Notes (PDF), para 187

16.2 Criminal liability of bodies corporate and partnerships

Clause 130 of the bill would enable a corporate body or partnership to be held criminally liable where a senior manager commits an offence while acting within the actual or apparent authority granted to them by the organisation. It replicates a provision that was originally included in the Conservative government's Criminal Justice Bill 2023-24.[606]

Background

Under the common law 'identification doctrine', which has been developed by the courts over many years, if an individual who represents the "directing mind and will" of a body corporate commits a criminal offence in that capacity, the offence is held to be that of the body corporate itself.[607]

The Conservative government said the increasing complexity of corporate governance and management could make it "difficult to determine who really pulls the strings and directs the whole business functions".[608]

The Conservative government therefore legislated, through sections 196 to 198 of the Economic Crime and Corporate Transparency Act 2023 (the ECCT Act), to place the identity doctrine on a statutory footing for the economic crimes listed in schedule 12 to the 2023 act (including theft, fraud and bribery).

The Conservative government said it was committed to reforming the identification doctrine as it applied to all criminal offences, not just economic offences; however, this wider reform was outside the scope of the bill that became the ECCT Act and would therefore take place in future "when a suitable legislative vehicle arises".[609]

A clause to replace sections 196 to 198 of the ECCT Act with equivalent provisions covering all criminal offences was included in the Conservative government's Criminal Justice Bill 2023-24 (clause 14 of the bill as introduced). However, the bill fell due to the 2024 general election.

606 See section 2.6 of the Library briefing Criminal Justice Bill 2023-24 for further details

607 *Tesco v Nattrass* [1972] AC 153

608 Gov.uk, Economic Crime and Corporate Transparency Act: identification principle for economic crime offences, 1 March 2024

609 Gov.uk, Economic Crime and Corporate Transparency Act: identification principle for economic crime offences, 1 March 2024

The bill

Clause 130 replicates clause 14 of the Conservative government's Criminal Justice Bill 2023-24. It would replace sections 196 to 198 of the ECCT Act with a wider set of provisions applying to all criminal offences.

Under clause 130(1), where a senior manager of a body corporate or partnership (the "organisation") acting within the actual or apparent scope of their authority commits an offence under the law of England and Wales, Scotland or Northern Ireland, the organisation would also commit the offence.

Under clause 130(2), the organisation would not commit an offence if:

- all of the conduct constituting the offence occurred outside the UK, and
- the organisation would not commit the offence if that conduct were the organisation's (rather than the senior manager's).

The explanatory notes state that this is to ensure criminal liability would not attach to "an organisation based and operating overseas for conduct carried out wholly overseas, simply because the senior manager concerned was subject to the UK's extraterritorial jurisdiction: for instance, because that manager is a British citizen".[610]

[610] Explanatory Notes (PDF), para 1034

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