



House of Lords  
House of Commons

Joint Committee on Human Rights

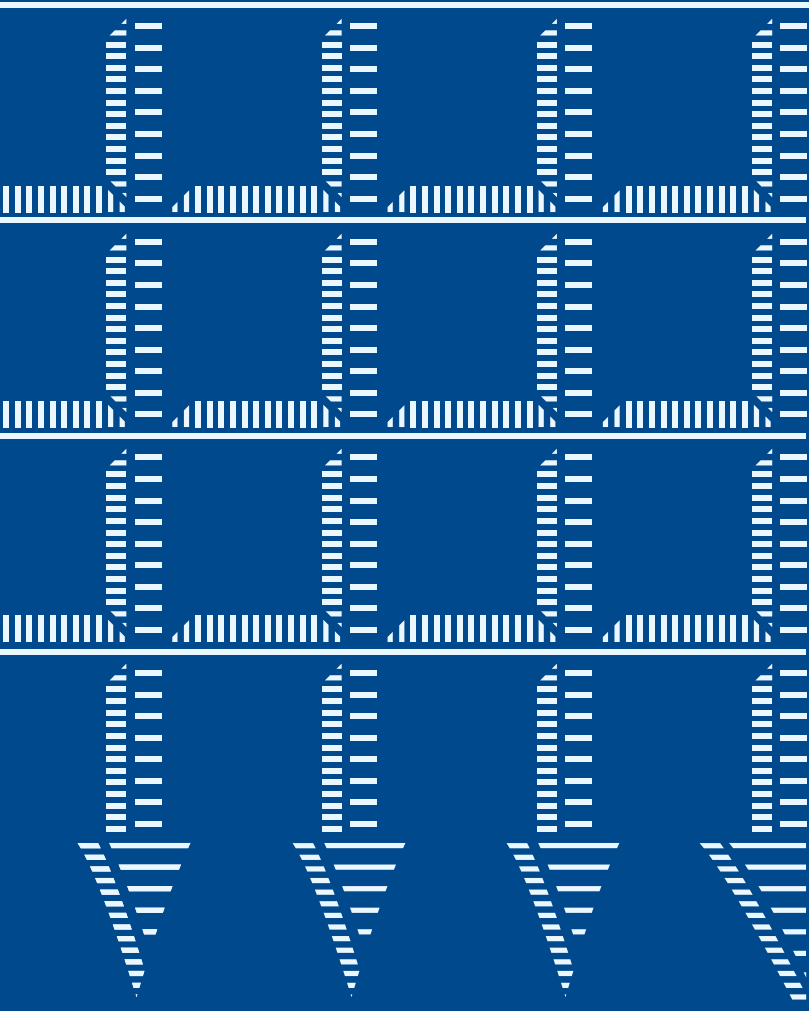
---

# Legislative Scrutiny: Crime and Policing Bill

---

Fifth Report of Session 2024–25

HC 830 / HL Paper 156



---

# Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders. The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

## Current membership

### House of Lords

[Lord Alton of Liverpool](#) (Crossbench; Life peer) (Chair)

[Lord Dholakia](#) (Liberal Democrat; Life peer)

[Baroness Kennedy of The Shaws](#) (Labour; Life peer)

[Baroness Lawrence of Clarendon](#) (Labour; Life peer)

[Lord Murray of Blidworth](#) (Conservative; Life peer)

[Lord Sewell of Sanderstead](#) (Conservative; Life peer)

### House of Commons

[Juliet Campbell](#) (Labour; Broxtowe)

[Tom Gordon](#) (Liberal Democrat; Harrogate and Knaresborough)

[Afzal Khan](#) (Labour; Manchester Rusholme)

[Alex Sobel](#) (Labour; Leeds Central and Headingley)

[Peter Swallow](#) (Labour; Bracknell)

[Sir Desmond Swayne](#) (Conservative; New Forest West)

## Powers

The Committee has the power to require the submission of written evidence and documents, to examine witnesses, to meet at any time (except when Parliament is prorogued or dissolved), to adjourn from place to place, to appoint specialist advisers, and to make Reports to both Houses. The Lords Committee has power to agree with the Commons in the appointment of a Chairman.

## Publication

This Report, together with formal minutes relating to the report, was Ordered by the House of Commons and the House of Lords, on 9 July 2025, to be printed. It was published on 14 July 2025 by authority of the House of Commons and the House of Lords. © Parliamentary Copyright House of Commons 2025.

This publication may be reproduced under the terms of the Open Parliament Licence, which is published at [www.parliament.uk/copyright](http://www.parliament.uk/copyright).

Committee reports are published on the Committee's website at [www.parliament.uk/jchr](http://www.parliament.uk/jchr) and in print by Order of the House of Commons and House of Lords.

## Contacts

All correspondence should be addressed to the Clerk of the Joint Committee on Human Rights, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 0207 219 2793; the Committee's email address is [jchr@parliament.uk](mailto:jchr@parliament.uk). You can follow the Committee on X (formerly Twitter) using [@HumanRightsCtte](https://twitter.com/HumanRightsCtte).

---

# Contents

<b>Summary</b>	<b>1</b>
<b>1 Overview of the Crime and Policing Bill and the JCHR's scrutiny</b>	<b>4</b>
Introduction	4
Content of the Bill	4
Our inquiry	7
Scope of this Report	8
<b>2 Anti-social behaviour</b>	<b>9</b>
Definition	10
Respect Orders	13
Need for change?	15
Repeating past mistakes?	16
Need for review	19
Human rights safeguards	22
Standard of proof	22
Just and convenient	25
Other ASB measures	27
Public Spaces Protection Orders	27
Community Protection Notices	28
Changes in the Bill - fixed penalty notices	28
<b>3 Public order</b>	<b>32</b>
The right to protest	32
Context of substantial change to public order law	33
Concealing identity	35
Need for change?	35

Human rights	37
In accordance with the law	37
Proportionality	39
Places of worship - restrictions on protest	44
Is change necessary?	45
<b>4 Other issues</b>	<b>48</b>
Mandatory reporting of child sexual abuse	48
Scope of duty	49
Failure to comply	50
Universal jurisdiction	53
<b>Conclusions and recommendations</b>	<b>55</b>
<b>Annex: Suggested Amendments to the Bill</b>	<b>60</b>
<b>Formal minutes</b>	<b>63</b>
<b>Witnesses</b>	<b>64</b>
<b>Published written evidence</b>	<b>65</b>
<b>List of Reports from the Committee during the current Parliament</b>	<b>66</b>

---

# Summary

The Crime and Policing Bill is a substantial piece of legislation, which would alter the law across a wide range of criminal justice policy areas. This report focuses on the human rights issues arising from two areas that the Bill covers: anti-social behaviour and public order. It also considers the introduction of a mandatory duty to report child sexual abuse and revisits an amendment to provide for universal jurisdiction over serious international crimes

In the course of our inquiry we heard of the corrosive impact anti-social behaviour (ASB) can have on people's lives and on our communities. We recognise the importance of protecting the rights of victims of such behaviour. We also heard how the rights of those accused of ASB can be affected by the wide variety of legal measures available to tackle ASB. It is vital the law provides protection for victims whilst also ensuring that (a) those accused of ASB are able to defend themselves against these accusations when they believe them to be inaccurate and (b) those found to have engaged in ASB are subjected to restrictions, requirements and punishments that are justified and proportionate.

The term ASB covers a wide range of behaviour, with a number of different legal definitions applying in this area. The breadth and subjectivity of those definitions risks sweeping up less serious matters along with behaviour that demands a legal response. This makes it particularly important that the law containing powers to tackle ASB includes effective safeguards against disproportionate use.

The Bill would introduce respect orders, civil orders imposed on a person found to have engaged in or threatened ASB which can include almost any prohibition or requirement. Breach of the respect order will be a criminal offence. Respect orders largely replicate existing powers to deal with ASB, particularly ASB injunctions, and also have similarities with the now defunct ASBO. We agree that a review of existing ASB measures and their efficacy should have been carried out before new measures were introduced and we recommend such a review is carried out now.

The key protection against unjustified and disproportionate use of respect orders is the judicial process that must be followed before they can be imposed. However, we have concerns about the overall fairness of that process. This should also be reviewed.

The Bill would substantially increase the maximum sum that can be imposed by way of fixed penalty notice (i.e. an on the spot fine) for breaches of public spaces protection orders (PSPOs) and community protection notices (CPNs). Given the lack of judicial scrutiny for these measures and in particular for their enforcement by way of fixed penalty notice, we are concerned that a £500 maximum increases the risk of disproportionate fines being imposed for low level ASB or even for behaviour that does not justify sanction. We recommend an urgent review of the use of CPNs and PSPOs.

The Bill would also make changes to the law on public order, which will engage the fundamental right to engage in peaceful protest. This is the third piece of primary legislation changing the law on public order on which the JCHR has reported in less than five years. We recommend that the Government should review the impact of recent changes in the law on the exercise of the right to protest before embarking on any further legislation in this area.

The Bill would introduce a new offence of concealing identity at protests. We are concerned that the law does not provide a clear definition of what amounts to a protest and recommend either that such a definition is added or that the power should refer to assemblies and processions instead. We agree that the police should be able to take action against individuals using masks to intimidate others and to evade arrest. However, we also recognise that there may be legitimate reasons for actions that conceal identity at a protest. Therefore, criminalising all concealment of identity, simply because any kind of offending is anticipated, may result in unjustified interference with the rights of peaceful protesters. The Bill should be amended so that the offence only comes into play when it is reasonably believed that violence or public disorder are likely to occur. Amendments should also be made to ensure unintentional and justified concealment of identity does not result in criminal liability.

The Bill would also introduce a new police power to impose conditions on protests in the vicinity of places of worship, where the protest may intimidate people away from carrying out religious activities there. It is important from a human rights perspective to protect against actions that intimidate people seeking to manifest their religion through worship. However, where those steps impact on the right to protest it is crucial that there are adequate safeguards to ensure both rights are appropriately balanced. We suggest a minor amendment to the Bill so that conditions can only be imposed when the police reasonably believe that people would be intimidated rather than that they may be intimidated.

The Bill would introduce a mandatory duty to report child sexual abuse, which was a key recommendation of the Independent Inquiry into Child Sexual Abuse. Combating child sexual abuse is crucial for protecting the

human rights of children. We are concerned that the narrow scope of the duty and, in particular, the limited consequences of a failure to comply with the duty could undermine its efficacy. We recommend the Government keeps the duty under review once introduced and reconsiders the consequence of failing to comply so that it operates as an effective deterrent.

Finally, we reiterate a recommendation made in the JCHR report on Accountability for Daesh Crimes, that the Bill should be amended to include a change to the International Criminal Court Act 2001 to allow more serious international crimes to be tried in the UK.

---

# 1 Overview of the Crime and Policing Bill and the JCHR's scrutiny

## Introduction

1. The Crime and Policing Bill, hereinafter “the Bill”, was introduced into the House of Commons on 25 February 2025. It completed its passage through the Commons on 18 June 2025 and had its First Reading in the House of Lords on 19 June 2025.
2. The Bill is the first major piece of legislation on criminal justice brought forward by the current Government. The explanatory notes to the Bill state that:

The Crime and Policing Bill supports the delivery of the Government's Safer Streets Mission to halve knife crime and violence against women and girls (“VAWG”) in a decade and increase public confidence in policing and the wider criminal justice system. It aims to support neighbourhood policing and give the police the powers they need to tackle anti-social behaviour, crime and terrorism, whilst introducing reforms to ensure that law enforcement agencies perform to the highest standards expected by the public and focus on front-line policing...<sup>1</sup>

## Content of the Bill

3. The Bill is substantial and makes numerous amendments to the law across a range of broad policy areas. Some of the Bill's provisions replicate measures appearing in the Criminal Justice Bill that was introduced under the last Government but fell when the General Election was called.
4. Following extensive amendment in the House of Commons, on introduction to the House of Lords the Bill contained 203 clauses and 21 schedules, split into 16 parts over 444 pages. These 16 parts can be broken down as follows:

---

1 [Explanatory notes](#)

- a.** Part 1 concerns anti-social behaviour:
- i) Chapter 1 of Part 1 makes provision for Respect Orders, intended to tackle persistent anti-social behaviour. It would also make amendments to Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014, changing anti-social behaviour injunctions into youth injunctions and housing injunctions.
  - ii) Chapter 2 of Part 1 would amend the powers of the police, local authorities and other agencies to tackle anti-social behaviour, including by extending the duration of dispersal orders and raising the fines that can be given by way fixed penalty notice for breaches of public spaces protection orders and community protection notices. The Government has also made clear that it intends to bring into force the clauses of the Police, Crime, Sentencing and Courts Act 2022 that repeal the Vagrancy Act 1824,<sup>2</sup> and this chapter thus contains measures to ensure that trespass with intent to commit an offence and arranging or facilitating begging for gain remain prohibited by criminal law.
- b.** Part 2 makes provision about offensive weapons, including: Chapter 1, which covers online advertising and includes measures holding senior managers of online platforms personally liable for failure to take action to remove illegal content relating to knives and offensive weapons; and Chapter 2, which includes a new offence relating to the possession of a bladed article or offensive weapon with intent to use it to cause unlawful violence or serious damage to property, new powers to seize bladed articles and a requirement on retailers to report bulk and suspicious sales of bladed articles and offensive weapons.
- c.** Part 3 makes provision about retail crime, including creating a new offence of assaulting a retail worker and a presumption that such an offence will be accompanied by a criminal behaviour order.
- d.** Part 4 makes provision in respect of the criminal exploitation of children and vulnerable adults, including an offence of child criminal exploitation (CCE), an offence of ‘cuckooing’<sup>3</sup> and the introduction of CCE prevention orders.

---

<sup>2</sup> Press release, [Rough sleeping to be decriminalised after 200 years](#)

<sup>3</sup> ‘Cuckooing’ is a term used to describe taking over another person’s home and using it for criminal activity or exploitation.

- e.** Part 5 concerns sexual offences:
  - i) Chapter 1 creates new or amends existing sexual offences in relation to children, including criminalising child sexual abuse image generators,<sup>4</sup> as well as expanding the powers of border staff in relation to child sexual abuse material.
  - ii) Chapter 2 would place a duty on persons undertaking regulated activity (such as teachers and health care professionals) to report child sexual abuse, subject to specified exceptions.
  - iii) Chapter 3 removes the limitation period for personal injury claims arising from child sexual abuse.
  - iv) Chapter 4 makes other provision about sexual offences, including introducing new offences to criminalise taking or recording an intimate photograph or film without consent, and installing equipment with intent to enable the taking or recording of intimate photographs or films without consent.
  - v) Chapter 5 of Part 5 provides for changes in the law covering the management of registered sex offenders.
- f.** Part 6 makes provision about stalking protection orders and the issuing of guidance in respect of stalking offences and protection orders and in respect of the disclosure of police information for the purpose of protecting persons from stalking.
- g.** Part 7 amends the criminal law to make further provision to protect persons, introducing a new offence of administering a harmful substance (including by spiking), a new broader offence of encouraging or assisting serious self-harm and new offences of causing death or serious injury by dangerous cycling.
- h.** Part 8 provides for new offences to prevent vehicle theft and fraud, including possessing electronic devices suspected of being for use in vehicle theft and possession of a SIM farm.
- i.** Part 9 concerns public order:
  - i) Chapter 1 provides for new offences. Clauses 118 to 120 create a new offence of wearing or otherwise using a face covering in a designated locality. A police designation can only be made where a protest is likely to involve or has involved the commission of offences. Clause

---

4 A child sexual abuse image generator is defined in clause 57 of the Bill 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, [child sexual abuse] images” (including photographs and pseudo photographs).

121 prohibits the possession of pyrotechnics at protests. Clause 122 creates an offence of climbing on a war memorial specified in Schedule 12.

ii) Chapter 2 enhances police powers to impose conditions on protests.

- j.** Part 10 would give new or modified powers to the police and other law enforcement agencies, including a new power to enter and search premises without a warrant where stolen goods have been electronically tracked to those premises and it is not reasonably practicable to obtain a warrant.
- k.** Part 11 would reform the proceeds of crime confiscation regime in England and Wales and Northern Ireland.
- l.** Part 12 would make changes to the law on management of offenders, including extending the use of polygraph (i.e. lie-detector) testing to certain offenders released on licence, under probation supervision.
- m.** Part 13 would make changes to the police complaints system as well as introducing a presumption of anonymity for firearms officers charged with offences committed in the course of their duties.
- n.** Part 14 would introduce new powers and modify existing powers to counter terrorism and hostile state threats, including the introduction of youth diversion orders designed to disrupt young people involved in terrorism-related offending and divert them from the criminal justice system.
- o.** Part 15 contains a clause disapplying offences related to abortion if committed by a woman acting in relation to her own pregnancy.
- p.** Part 16 contains miscellaneous and general provisions.

## Our inquiry

5. To support our legislative scrutiny of the Bill, the Joint Committee on Human Rights (**JCHR**) launched a call for evidence on 28 March 2025.<sup>5</sup> Given its extremely broad scope, the call for evidence focused on the parts of the Bill thought most likely to give rise to human rights concerns. Nevertheless, we invited all those who responded to refer us to any other human rights issues they wished to draw to the attention of the Committee. We received 23 written responses.<sup>6</sup>

---

5 Joint Committee on Human Rights, Call for Evidence on Crime and Policing Bill (December 2024)

6 [Written evidence: Crime and Policing Bill](#)

6. The JCHR also held a public oral evidence session on the anti-social behaviour and public order elements of the Bill on 11 June 2025. We received evidence from Dr Alex Black of Sheffield Hallam University; Tyrone Steele, deputy Legal Director of JUSTICE; Chief Constable Mark Hobrough of Gwent Police, on behalf of the National Police Chief's Council; and Rebecca Bryant MBE, Chief Executive of Resolve.<sup>7</sup> We are grateful to all those who provided written and oral evidence to us.

## Scope of this Report

7. While many of the proposals in the Bill would engage human rights, this report does not seek to cover all of its provisions. Rather we have focused on specific areas that give rise to substantial human rights concerns, and on which we received the most evidence. Those areas are, in particular, Part 1 of the Bill concerning anti-social behaviour measures, which engage the rights of victims and alleged perpetrators of anti-social behaviour and Part 9 of the Bill which would make changes to the law on public order, engaging in particular the right to engage in peaceful protest.

---

<sup>7</sup> A transcript of the oral evidence session is available [here](#).

---

## 2 Anti-social behaviour

8. The Minister for Policing and Crime Prevention has described anti-social behaviour (ASB) as a “scourge” that is “blighting high streets and town centres right across the country”.<sup>8</sup> She has also told Parliament that:

Anti-social behaviour chips away at people’s sense of pride and confidence in their local area. It ruins their enjoyment of public spaces. For those affected by the most serious and persistent cases, their quality of life is damaged.<sup>9</sup>

9. In material accompanying the Bill the Government has also identified ASB as “a matter of pressing concern for the public”, pointing out that the Crime Survey for England and Wales for the year ending June 2024 suggests “36% of respondents personally witnessed or experienced ASB in their area”.<sup>10</sup> Available data also indicates that there has been a 6% increase over the past decade in the number of respondents who stated that ASB is a very or fairly big problem in their local area, although the number of ASB incidents recorded by the police in 2024 was 51% lower than it was in 2014.<sup>11</sup>
10. Anti-social behaviour can affect the human rights of victims, most obviously through its effect on the right to respect for private and family life and the home, which is guaranteed under Article 8 ECHR.
11. There are a wide range of legal measures available to tackle ASB, including anti-social behaviour injunctions, criminal behaviour orders (CBOs), public spaces protection orders (PSPOs) and expedited PSPOs, community protection notices (CPNs), police dispersal powers, closure powers and ASB as a ground for possession of tenancies. Use of these measures may also engage the human rights of those accused of ASB, including under Article 6 ECHR (the right to a fair trial) as well as the qualified rights to respect for private life and the home, to free expression and to free assembly and association, guaranteed by ECHR Articles 8, 10 and 11 respectively. Under the Human Rights Act 1998 it is unlawful for a public authority to act incompatibly with Convention rights.

---

8 [Anti-social Behaviour; Volume 752: debated on Monday 29 July 2024](#)

9 [Respect Orders and Anti-social Behaviour; Volume 757: debated on Wednesday 27 November 2024](#)

10 [Crime and Policing Bill: Anti-social behaviour \(ASB\) factsheet](#), 13 June 2025 - referring to the Crime Survey for England and Wales 2024

11 [Ibid](#)

12. In written evidence to us, Resolve, the community safety organisation, highlighted that there are human rights considerations on both sides:

We stress the importance of balancing the human rights of both the perpetrator and the victim. While the human rights of the perpetrator, both for pragmatic and ethical reasons, must be considered, it must be highlighted not just the individual impact ASB has on victims, but also the corrosive impact it has on communities and public spaces at large.<sup>12</sup>

13. **CONCLUSION**

We recognise that anti-social behaviour can blight communities, with the most serious and persistent cases undermining well-being, causing intimidation and distress and preventing the full expression and enjoyment of individual rights. We also recognise that those accused of anti-social behaviour, and those found to have engaged in it, also have human rights that must be respected even while action is properly being taken against them. We agree with witnesses that it is vital the law provides protection for victims whilst also ensuring that (a) those accused of anti-social behaviour are able to defend themselves against these accusations where they believe them to be inaccurate and (b) those found to have engaged in anti-social behaviour are subjected to restrictions, requirements and punishments that are justified and proportionate.

## Definition

14. The term “anti-social behaviour” was first brought to wider public attention with the introduction of Anti-social Behaviour Orders (ASBOs) in the Crime and Disorder Act 1998. According to the 1998 Act, a person had behaved anti-socially if they had acted “in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household”.<sup>13</sup> A different and wider definition of anti-social behaviour has developed in the housing context, with the Anti-social Behaviour Injunction introduced in the Anti-social Behaviour Act 2003 being available in respect of conduct “likely to cause a nuisance or annoyance”.<sup>14</sup>
15. The Anti-social Behaviour, Crime and Policing Act 2014 replaced ASBOs and ASBIs with a new ‘ASB civil injunction’, based on a wider definition of anti-social behaviour that incorporated the standards used for both ASBOs and ASBIs:

---

12 [CPB0025](#)

13 Section 1, Crime and Disorder Act 1998

14 Section 13, Anti-social Behaviour Act 2003

“anti-social behaviour” means—

(a) conduct that has caused, or is likely to cause, harassment, alarm or distress to any person,

(b) conduct capable of causing nuisance or annoyance to a person in relation to that person’s occupation of residential premises, or

(c) conduct capable of causing housing-related nuisance or annoyance to any person.<sup>15</sup>

**16.** Yet another definition of ASB applies to community protection notices and public spaces protection orders, which may be put in place as a result of conduct that “is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality”.<sup>16</sup>

**17.** Dr Alex Black, a criminologist from Sheffield Hallam University who specialises in the tools available to regulate ASB, assisted us on the meaning of anti-social behaviour:

In some big debates around anti-social behaviour, there has been slippage around how it is used and its consistency when applied to people engaging in different types of behaviours. Importantly, it is relational, so it is about how that behaviour is perceived by somebody else and, of course, that can be context-dependent—for example, dependent on people’s levels of tolerance and how people relate to one another, but it is behaviour that does not meet the criminal threshold. It is behaviour that is often referred to as sub-criminal and sometimes referred to as low level, although of course we know it can be quite serious, but it is not a criminal behaviour in and of itself.<sup>17</sup>

**18.** While we agree that the ASB framework operates at a lower level than the criminal law insofar as it does not directly criminalise ASB, we also accept a point made to us in written evidence from Resolve: that conduct that falls within ASB can include behaviour that is already criminal. This is because criminal behaviour may cause alarm, distress, nuisance or detriment to quality of life. However, this also opens the possibility of criminal behaviour being addressed through the civil ASB framework, without the procedural protections that the criminal law put in place for defendants.

**19.** To some extent this blurred line between criminal behaviour and ASB is consistent with the evidence of Tyrone Steel, deputy Legal Director of Justice, who described the definition and interpretation of what anti-social behaviour can constitute as “broad, vague, and open”, adding:

---

15 Section 2, Anti-social Behaviour, Crime and Policing Act 2014

16 Sections 43 and 59 of the Anti-social Behaviour, Crime and Policing Act 2014

17 [Q1](#)

Our research, which includes engagement with police, local authorities and victims themselves, shows that the difficulty in defining ASB has led to inconsistent enforcement across the country and, effectively, a postcode lottery for victims which, of course, undermines public confidence.<sup>18</sup>

**20.** The Youth Justice Board also commented on the broad definition of ASB:

The number of recorded incidents of ASB has decreased by approximately 50% over the last 10 years. Despite the reduction in recorded incidents of ASB, public perceptions of the severity of ASB have remained broadly the same. It is unclear why public perceptions have remained the same despite the real term drop, but this could be down to the ambiguous definition of what constitutes anti-social behaviour... A common criticism of the definition of ASB is that, by describing the consequences of the behaviour rather than defining the behaviour itself, it lacks specificity and measurability.<sup>19</sup>

**21.** Witnesses raised another issue arising from the breadth of the various ASB definitions. While much behaviour that causes “alarm or distress”, a “detrimental effect” on “quality of life” or even just “nuisance or annoyance” is worthy of sanction, these terms may be interpreted so as to cover behaviour that arguably does not justify a punitive legal response.

**22.** Tyrone Steele gave us some examples of “how this lack of understanding or lack of clarity in the definition has had a real-world impact”:

we have seen orders issued every day for what we would all agree are non-harmful behaviours, including a woman wearing a bikini in her garden, an elderly man advertising a charity bake sale, and buskers and street artists performing in public. More concerningly, we have also seen ASB powers being used against people who are vulnerable or, indeed, victims. For example, we have seen ASB powers used against a domestic abuse survivor sanctioned for crying too loudly while being assaulted, a family of an autistic child accused of closing a door too loudly, a homeless veteran penalised for sitting on the pavement, and a woman with bipolar disorder who was issued a community protection notice which then triggered a mental health crisis.<sup>20</sup>

**23.** Standing Together Against Domestic Abuse also raised concerns that victims of domestic abuse receive disproportionate complaints about ASB:

---

18 [Q1](#)

19 [CPB0024](#)

20 [Q1](#)

Victims of domestic abuse are four times more likely to find themselves facing an anti-social behaviour complaint made by neighbours or other members of the community... Neighbours may hear shouting, crying, or physical altercations and may not fully understand the context of the situation... unknowingly exacerbating the victim-survivors' situation and putting them at risk of homelessness.<sup>21</sup>

24. Liberty told us that “councils and police have repeatedly misused [powers to tackle ASB] to target begging, rough sleeping, and minor nuisance.”<sup>22</sup> Similarly, Crisis informed the Public Bill Committee of their concerns about the use of ASB measures against the homeless, including the new respect orders that the Bill would introduce and also dispersal powers and PSPOs, which Crisis is clear “can disproportionately affect people experiencing homelessness”.<sup>23</sup>
25. Rebecca Bryant of Resolve accepted “that anti-social behaviour is a very broad definition of types of behaviour. It is subjective, so it is dependent on the individual and their experiences.”<sup>24</sup> In their written evidence Resolve nevertheless considered the definition of ASB as “well-established” and “while presented as vague, is specific when defined by the distress caused... and the definition alone does not constitute a risk to human rights, given the existing legal landscape and checks and balances.”<sup>25</sup>

26. **CONCLUSION**

The broad definition of anti-social behaviour encompasses a wide range of unacceptable behaviour. While it may be well-established and understood by some authorities, its breadth and subjectivity allows for inconsistency in its application and risks sweeping up less serious matters along with behaviour that demands a legal response. This can disproportionately affect vulnerable groups and result in measures being taken that interfere with human rights to an unjustified extent. It is therefore particularly important that measures taken to combat anti-social behaviour contain effective safeguards against their disproportionate use.

## Respect Orders

27. The central new ASB measure introduced in the Bill is the respect order, which the explanatory notes to the Bill describe as tackling “a new preventative civil order to address persistent and/or highly disruptive

---

21 [CPB0015](#)

22 [CPB0008](#)

23 [CPB0026](#)

24 [Q12](#)

25 [CPB0025](#)

anti-social behaviour”.<sup>26</sup> Under the Bill, a county court, or the High Court, could impose a respect order against an adult who, on the balance of probabilities, has “engaged in or threatens to engage in anti-social behaviour”. The definition of ASB for this purpose is the narrower definition discussed above, i.e. “conduct that has caused, or is likely to cause, harassment, alarm or distress”. The court must also be satisfied that it is “just and convenient” to make the order. The Bill does not, however, confine respect orders to those engaged in “persistent” or “highly disruptive” ASB.

- 28.** A respect order could be applied for by local authorities and the police, but also by Transport for London, Transport for Greater Manchester, and the Environment Agency, among others. A housing provider could also apply, though only where the anti-social behaviour directly affects its housing management functions. Applications for respect orders can be made without giving notice to the person against whom the order is sought, but only an interim (i.e. temporary) order can be made until the recipient has had the opportunity to participate in the proceedings.
- 29.** A respect order could include in its terms ‘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).<sup>27</sup> A respect order can have the effect of excluding a person from the place they normally live – but only if they have engaged in or threatened violence against and represent a significant risk of harm to others.
- 30.** Breach of a respect order, i.e. failing to comply with any prohibition or requirement without reasonable excuse, is a criminal offence punishable with up to 2 years in prison.<sup>28</sup>
- 31.** The Bill places no limit on how long a respect order can last, with the explanatory notes confirming that the courts can issue an order for an indefinite period.<sup>29</sup>

---

26 [Explanatory notes](#), para 28. The [Crime and Policing Bill: antisocial behaviour \(ASB\) factsheet, 26 June 2025](#), also refers to respect orders as enabling police to “tackle repeat ASB offenders” and “tackle persistent and highly problematic ASB”.

27 Interim respect orders secured without notice cannot include positive requirements (new clause F1(3))

28 In respect of positive requirements that involve having to participate in a particular activity, a warning must be given for the first breach but any further breach within 12 months is an offence.

29 [Explanatory notes](#), para 255

## Need for change?

32. The respect order would replace ASB injunctions (although only for adults). ASB injunctions can currently be used to impose essentially the same prohibitions and positive requirements as would be available under a respect order. The biggest change between the two measures appears to be that breach of a respect order would be a criminal offence, rather than being a contempt of court as is the case in respect of an ASB injunctions. Such a contempt may, however, still result in arrest (if a power of arrest has been included on the injunction) and punishment for contempt can be up to 2 years imprisonment (the same punishment that would be available for respect orders).
33. Community Protection Notices (CPN) (discussed further below) are also already available to local authorities and the police. The purpose of a CPN is hard to distinguish from that of a respect order, being “to stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community’s quality of life”.<sup>30</sup> Breach is a criminal offence, but punishable only with a fine up to £2,500.<sup>31</sup>
34. We heard evidence noting the similarity between existing measures for tackling ASB and the respect order. Liberty told us that respect orders “duplicate existing powers” which “are already extensive and—where used appropriately—capable of dealing with persistent ASB”.<sup>32</sup> Dr Black also told us that “respect orders are not needed. We already have the provisions in place that do roughly the same.”<sup>33</sup>
35. Justice referred us to a survey of practitioners they carried out following an anti-social behaviour roundtable event and confirmed that “over 82% of respondents to our Practitioners’ Survey felt that Respect Orders duplicate or overlap with existing measures under the 2014 Act”.<sup>34</sup>
36. Crisis also queried the need for introducing the respect order:

---

30 [Anti-social behaviour powers: statutory guidance for frontline professionals](#), updated 27 March 2023

31 Level 4 on the standard scale. Sections 48 of the Anti-social Behaviour, Crime and Policing Act 2014

32 [CPB0008](#)

33 [Q6](#)

34 [CPB0023](#); Justice refer to “...an anti-social behaviour roundtable hosted by JUSTICE and Green and Burton ASB Associates in March 2025 which focussed on provisions within the Crime and Policing Bill, and was attended by practitioners...and...a follow-up survey which gathered further practitioner perspectives. Delegates to our roundtable and participants to our survey included representatives from local authorities, the police, housing associations, community safety teams, victim’s representatives and other anti-social behaviour experts. 21 delegates attended the roundtable and as of the date of this briefing, 33 responses have been received to our survey.”

[E]xisting legislation is already in place that provides for similar powers. For example, under Chapter 1 of the Anti-Social Behaviour, Crime and Policing Act 2014, police and local authorities can impose Community Protection Notices (CPNs) on an individual if satisfied that the conduct of an individual is having a persistent or continuing detrimental effect on the quality of life of those in the locality, and that conduct is unreasonable. CPNs can already include requirements to stop doing specified things, do specified things and take reasonable steps to achieve specified results. This is already an extremely broad power addressing a potentially wide range of anti-social behaviour, which is already frequently used to target rough sleeping and begging. We therefore question the need to implement further, similar measures via Respect Orders.<sup>35</sup>

- 37.** Resolve took a different view, broadly welcoming the introduction of respect orders, on the basis that they would separate out the more serious ASB, that causing harassment, alarm or distress, from that causing nuisance or annoyance and that they would focus on adults and on positive requirements.<sup>36</sup>

## Repeating past mistakes?

- 38.** One of the main significant differences between respect orders and the existing ASB injunction is the fact that breach of a respect order would be a criminal offence. This makes the respect order very similar to the ASBO, itself a civil order that could be sought by the police and local authorities, which could impose particular restrictions on individuals breach of which would be a criminal offence. ASBOs were controversial. While welcomed by many, they received criticism for being ineffective in preventing anti-social behaviour, for disproportionately impacting vulnerable populations and for high breach rates and inconsistent application. ASBOs were removed from the statute book in respect of England & Wales by the Conservative/Liberal Democrat Coalition Government and replaced with the ASB civil injunction and Criminal Behaviour Orders (CBOs).<sup>37</sup>
- 39.** Liberty described the introduction of respect orders as an attempt:
- to effectively resurrect the widely discredited Anti-Social Behaviour Orders (ASBOs), previously scrapped due to ineffectiveness, misuse, and disproportionate impacts on marginalised groups.<sup>38</sup>

---

35 [CPB0026](#)

36 [CPB0025](#)

37 Anti-social Behaviour, Crime and Policing Act 2014. ASBOs remain available in Scotland.

38 [CPB0008](#)

40. Dr Alex Black was asked whether the introduction of respect orders saw changes being made that that would address the issues that arose around ASBOs:

Some of the biggest challenges of the ASBOs and some of the main reasons why they were considered to be not overly effective was the breach rate. ASBOs were breached at a very high standard; I think at least two-thirds were breached and often those were breached multiple times: the average was about five times. Often, there was significant overrepresentation within anti-social behaviour orders of people who were experiencing different levels of vulnerabilities, mental health, learning disabilities, et cetera. There is not a great difference with a respect order.

On the face of it, there is nothing to suggest that respect orders would not be breached at the same rate.<sup>39</sup>

41. However, in their written evidence to the Committee, Resolve wanted to “stress the importance of the differences present in the Respect Order and the ASBO as different orders, formulated for different purposes”.<sup>40</sup> They noted that, unlike ASBOs, respect orders will not be available in respect of children, who will instead continue to be subject to the existing ASB injunctions (albeit renamed as youth injunctions).<sup>41</sup> Rebecca Bryant described the idea that children and young people were the cause of most ASB as “a real myth” and explained that “the vast majority of anti-social behaviour that is perpetrated in this country is by adults, not young people.”<sup>42</sup> Dr Black agreed that “most anti-social behaviour is committed by adults”.<sup>43</sup>
42. While children will be excluded from the effect of respect orders, the Youth Justice Board told us that they “question the justification for specific youth injunctions to tackle anti-social behaviour (ASB) in children”:

While it is common for ancillary orders, such as civil injunctions to be issued by the court in cases involving ASB, the evidence on their effectiveness in reducing anti-social behaviour is limited. In fact, evidence suggests that civil orders often fast-track children into the criminal justice system as the related restrictions are too onerous for what may often be low-level behaviour or may be ineffective in addressing the root cause of behaviour. This leads to a breach and

---

39 [Q2](#)

40 [CPB0025](#)

41 Anti-social behaviour by children would not go unaddressed under the Bill, but would be dealt with through youth injunctions which are essentially the existing ASB injunctions but available only in respect of under 18s.

42 [Q13](#)

43 [Q4](#)

criminalisation which we know increases the likelihood of further offending. This goes against our legal requirements to protect the welfare and best interests of the child.<sup>44</sup>

43. The other main difference between an ASBO and a respect order emphasised by Rebecca Bryant is the focus on positive requirements in the latter:

The whole aim of the positive requirement element, which is already there in the current legislation and will be brought forward into the respect order, is to start really unpicking that and looking at ways in which we can support people not to become anti-social in the first place or not to continue being anti-social. Using a respect order will lever and persuade somebody to perhaps engage with services that they have been offered in the past, but there has not been that necessity to do that.<sup>45</sup>

44. Resolve’s written evidence to the Committee added that the use of rehabilitative positive requirements “is one of the only ways to significantly eradicate ASB, as perpetrators often commit ASB due to underlying circumstances, whether this be mental health or drugs and alcohol. Research highlights the importance of recognising these underlying difficulties that often drive ASB.”<sup>46</sup>

45. While this focus on positive requirements does differ from ASBOs, they are already available under a wide range of orders including ASB injunctions and thus form part of the current legal framework for dealing with ASB. We heard from witnesses that positive requirements are currently not well used. Dr Black told us:

We know from injunctions that positive requirements are not often included and we also know that, in the current climate, if you are trying to put a positive requirement within a respect order, you need to have the services that would allow that support. It could be for drug addictions or behavioural change programmes, but unless there is the provision to allow that to take place then those programmes are not going to be able to run, and the behavioural change will not take place.<sup>47</sup>

46. The Victims’ Commissioner for England and Wales also noted the similarity between Respect Orders and ASBOs in her evidence to the Public Bill Committee and called for post-legislative scrutiny to ensure respect orders do not become “similarly ineffective”:

---

44 [CPB0024](#)

45 [Q13](#)

46 [CPB0025](#)

47 [Q2](#)

Lawyers and academics have raised concerns that ‘Respect Orders’ will not prove any different and appear to be reminiscent of the “ASBO”. ASBOs were introduced in 1999 and by the early 2010’s had proven to be overly bureaucratic and ineffective due to high levels of non-compliance. They were abolished in 2014 when the Anti-Social Behaviour, Crime and Policing Act 2014 brought in a new regime of civil orders.

To avoid these new ‘Respect Orders’ becoming similarly ineffective, there needs to be consistent implementation, and understanding of how the order can be utilised and enforced. As such, I recommend an evaluation be carried out 12 months after its roll out, to monitor the reach and effectiveness of the orders in combating ASB.<sup>48</sup>

**47. CONCLUSION**

It is important that measures designed to tackle ASB work to protect victims and do not unjustifiably affect the vulnerable. Respect orders would reintroduce criminal offence as a punishment for breach. It is not, however, clear why they would work more effectively than existing measures or the ASBOs that preceded them but were abandoned a decade ago.

**48. CONCLUSION**

Particularly given the emphasis witnesses placed on anti-social behaviour largely being carried out by adults, we welcome the decision to exclude children from the scope of respect orders. However, the youth injunction targeted at under 18s would simply replicate the existing regime. It is unclear whether this would effectively tackle anti-social behaviour and do enough to respect the rights of children.

**49. CONCLUSION**

We also welcome a focus on rehabilitative requirements within respect orders, but note that such requirements are already available under existing measures. From evidence we have received it does not appear they have been used effectively to address anti-social behaviour. Respect orders must be backed up with the resources necessary to make rehabilitative requirements work.

## Need for review

- 50.** In her evidence to the Public Bill Committee, the Victims’ Commissioner referenced the need for a review of existing powers:

---

48 Written evidence submitted to the Public Bill Committee by the Victims’ Commissioner for England and Wales ([CPB85](#))

While I welcome action to tackle anti-social behaviour, I am concerned that there are currently numerous ‘behavioural control’ orders that aim to address ASB. These are often overlapping in nature. JUSTICE’s 2023 report found they are often inconsistently applied and raised concerns around their effectiveness in preventing further harm.

I have written to the Minister for Crime, Policing and Fire to request a review of all existing civil legal tools designed to protect the public from ASB to see if they are fit for purpose. I have received a response confirming that although there has been no full-scale public review, the Respect Order is based on a robust evaluation of existing ASB powers. However, I continue to have reservations around the use of Respect Orders, and how they can effectively be implemented.<sup>49</sup>

- 51.** The survey of practitioners conducted by Justice also saw calls for a review of existing powers before more changes were made to the ASB legal framework:

Practitioners expressed their concern that Respect Orders were being introduced without any formal review of existing powers having taken place and without proper consultation with those responsible for using them. 82% of respondents to our Practitioner’s Survey called for there to be a review of existing powers under the 2014 Act, prior to introducing Respect Orders. Practitioners we engaged with were unanimous in their agreement that the Government should be working to address the problems inherent with the existing anti-social behaviour powers and orders...before creating more.<sup>50</sup>

- 52.** The Victims’ Commissioner’s call for “a review of all existing civil legal tools designed to protect the public from ASB” was echoed by Dr Black and Liberty who both also told us that a review of existing ASB measures is needed to ensure that the law is working effectively and fairly.<sup>51</sup> Tyrone Steele of Justice gave us more detail:

prior to the introduction of new orders like the respect order, we need to see the Home Office undertake a holistic review of all the powers that exist at the moment, look at the data, look at what works, and then design systems that will deliver against outcomes and actually deliver for victims. At the moment, the issue is that we are flying blind in the ASB space. The evidence does not show what works effectively.<sup>52</sup>

---

49 Written evidence submitted to the Public Bill Committee by the Victims’ Commissioner for England and Wales ([CPB85](#))

50 [CPB0023](#)

51 [Q6](#) and [CPB0008](#)

52 [Q3](#)

53. He added:

We need to make sure we are serving victims well by ensuring that the powers we have work, are targeting the right people, are the proper interventions, and that we do not end up with broad powers which are actually counterproductive... Our number one priority is to definitely make sure victims are served and their interests upheld. However, we cannot do that if we do not understand how these powers are working in the first place.<sup>53</sup>

54. In their evidence to us, the Youth Justice Board welcomed the fact that clause 7 of the Bill includes a power to make regulations requiring authorities to provide the Home Secretary with more data on ASB and the responses to it. They added that:

Until we have a clearer understanding of the national picture of ASB, including a better picture of the age demographics of those involved, the YJB would strongly advocate for not introducing new provisions which go against the evidence for what works and may be counterproductive.<sup>54</sup>

55. **CONCLUSION**

Measures designed to tackle anti-social behaviour affect the rights of victims and those accused of anti-social behaviour. To ensure these rights are properly protected it is important that the impact and efficacy of these measures are properly understood. We agree that the Government should have carried out a review of the wide range of existing measures available to tackle ASB before introducing the respect order on top.

56. **RECOMMENDATION**

We welcome the fact that the Bill provides for more data on ASB and responses to it be shared with the Secretary of State. The Government should go further, however, and now comply with the Victims' Commissioner's request to carry out a review of all existing civil legal tools designed to protect the public from anti-social behaviour to see if they are fit for purpose. If they are introduced, the use of respect orders and their compliance with human rights standards must be kept under careful review – with the Home Office reporting to Parliament on these matters within 18 months of the Bill coming into force.

---

53 Ibid

54 [CPB0023](#)

## Human rights safeguards

57. Whether or not respect orders are needed, if they are to be introduced they must come within a legal framework that protects victims but also offers sufficient safeguards for the rights of those accused. We note that the Bill would require a risk assessment to be carried out before any respect order is applied for, something which is already recommended for ASB injunctions in national guidance but not currently set out in law. This offers some preliminary protection against unnecessary or disproportionate use. Nevertheless, the key protection within the Bill against respect orders being wrongly issued is that they must be imposed by the courts. Thus, the legal test applied by the courts before they are imposed is crucial. As previously noted, the Bill provides for a two-part test. First, the court must be satisfied that the subject “engaged in or threatens to engage in anti-social behaviour”. Secondly, the court must also consider the imposition of the respect order to be “just and convenient”.

### Standard of proof

58. When a court is deciding whether a particular fact or state of affairs has been proved it will apply a particular “standard of proof”. In the criminal courts the standard of proof is generally “beyond reasonable doubt” while in the civil courts the standard is “on the balance of probabilities”. This latter standard means that the court will accept something has been proved if they think that it is more likely than not to have taken place.
59. In the case of *McCann*, the House of Lords (the former incarnation of the Supreme Court) rejected an argument that proceedings for the imposition of an ASBO were “criminal” rather than “civil” in nature (both as matter of domestic law and for the purposes of Article 6).<sup>55</sup> The court did nevertheless conclude that, given the seriousness of the allegation of ASB and the consequences of receiving an ASBO, in the interests of procedural fairness the courts should effectively apply the criminal standard of proof (i.e. “beyond reasonable doubt”) to the question of whether or not anti-social behaviour had taken place.<sup>56</sup> This was then the standard of proof applied throughout the period that ASBOs were used in England & Wales.
60. By contrast, and despite their similarity to ASBOs, the Bill explicitly provides for respect orders to be available on the same basis as ASB injunctions, i.e. where anti-social behaviour (or indeed the threat of it) has been proved

---

55 [R \(McCann and others\) v Crown Court at Manchester \[2002\] UKHL 39](#)

56 Lord Hope: “I think there are good reasons, in the interests of fairness, for applying the higher standard when allegations are made of criminal or quasi-criminal conduct which, if proved, would have serious consequences for the person against whom they are made.”

“on the balance of probabilities” (the more easily satisfied civil standard of proof.)<sup>57</sup> The ECHR memorandum issued by the Government states that this meets the requirements of Article 6 ECHR, the right to a fair trial:

The compatibility of a civil standard for analogous civil preventative orders with Article 6 ECHR was recently affirmed by the Supreme Court in *Jones v Birmingham City Council*. The Government is satisfied that the provisions do not, therefore, violate Article 6 and adequate safeguards exist to ensure procedural fairness.<sup>58</sup>

61. The Supreme Court in *Jones* concluded that applying the civil standard of proof to gang-related injunctions (under section 34 of the Policing and Crime Act 2009) and ASB injunctions was compatible with Article 6 ECHR.<sup>59</sup> The Court also noted that the European Court of Human Rights “has shown itself reluctant to rule on particular rules of evidence in isolation and is more concerned to assess whether the national proceedings considered as a whole were fair as required by article 6(1).”<sup>60</sup>
62. In accordance with this approach of the European Court of Human Rights, we have considered whether the proceedings for imposing respect orders, taken as a whole, comply with the right to a fair trial under Article 6.
63. The case of *McCann* is now of limited relevance. This is because, in *Jones*, the Supreme Court also addressed the approach taken by the House of Lords in *McCann* and concluded that it had been flawed, not least because the Lords had incorrectly approached the civil standard of proof as being flexible and able to be heightened (to make it effectively equivalent to the criminal standard). The Supreme Court stated clearly that any conclusion that applying the criminal standard of proof to ASBOs was required by Article 6 was wrong. We note, however, that the House of Lords in *McCann*, when faced with ASBO proceedings and the question of fairness, did appear to reach the view that the interests of fairness were best served by applying a standard of proof more rigorous than ‘the balance of probabilities’. We also note that the case of *Jones*, while of obvious importance, does not expressly address whether the broader procedural framework that would be applicable to respect orders provides sufficient protections to ensure fairness and compatibility with Article 6 ECHR. The Supreme Court in *Jones* held that the civil standard of proof complied with Article 6 in respect of gang-related injunctions and ASB injunctions. These civil orders differ from the proposed respect orders, not least because they do not make breach

---

57 We recognise that, since *McCann*, the courts have resolved that there is just one civil standard of proof - “the balance of probabilities”. See [Birmingham City Council v Jones and another \[2023\] UKSC 27](#).

58 Crime and Policing Bill: [European Convention on Human Rights memorandum](#)

59 [Jones v Birmingham City Council and another \[2023\] UKSC 27](#)

60 *Ibid*, para 31

an immediate criminal offence (although committal proceedings can be brought for contempt of court). In some other contexts, it appears to have been accepted that the criminal standard of proof is appropriate when imposing an order that has immediate criminal consequences for breach. For example criminal behaviour orders, breach of which is a criminal offence, appear to require proof of ASB beyond reasonable doubt before they can be imposed.<sup>61</sup> The statutory guidance on stalking protection orders, which also make breach a criminal offence, however, states that the courts are “likely” to apply the civil standard of proof.<sup>62</sup>

64. It is thus not clear to us that there has been a consistent approach to the standard of proof amongst other behavioural control orders, even those that have criminal consequences for breach. We can see that the higher standard of proof offers greater protection against orders being imposed without justification, but it could also make it more difficult to tackle ASB.
65. Some witnesses we heard from favoured this greater protection. When asked how the Bill’s provisions on respect orders might be amended to make them more human rights compliant Dr Black suggested changing the standard of proof “by moving from the civil to the criminal standard”.<sup>63</sup> Justice also told us that the Bill should be amended to include the criminal standard:

JUSTICE considers that the Bill should be amended to require that the criminal standard of proof be satisfied before a Respect Order can be imposed. This is consistent with the approach taken for other types of Behavioural Control Order and is in-keeping with the principles of procedural fairness and natural justice which provide long-standing protections to guarantee the right to a fair trial and protect against arbitrary detention or punishment.<sup>64</sup>

---

61 Statutory guidance: [Anti-social behaviour powers: statutory guidance for frontline professionals](#), 27 March 2023. The legislation that introduced criminal behaviour orders expressly stated that the criminal standard of proof applied (see s22(3), Anti-social Behaviour, Crime and Policing Act 2014). The power to make criminal behaviour orders now appears in s331 of the Sentencing Act 2020, which states only that the court needs to be “satisfied that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress” (essentially the higher definition of ASB). The statutory guidance states that the courts still apply the criminal standard of proof.

62 [Stalking Protection Orders: Statutory guidance for the police, April 2024](#), para 42. The Stalking Protection Act 2019 states that the courts can impose a stalking protection order where they are “satisfied” that the target has carried out acts associated with stalking, poses a risk of stalking and that the order is necessary to protect against stalking. The fact that the guidance only goes so far as to say that the courts are “likely” to impose the civil standard suggests recognition of the possibility that the courts could conclude that fairness requires a higher threshold.

63 [Q6](#)

64 [CPB0023](#)

## Just and convenient

66. Resolve noted to us that, when it comes to balancing the rights of victims against the rights of those accused of ASB:

The ultimate check and balance is the Judiciary; as the Bill articulates, the court has to consider ‘it just and convenient to make the order for the purpose of preventing the respondent from engaging in anti-social behaviour’.<sup>65</sup>

67. ‘Just and convenient’ is the same test applicable to the anti-social behaviour injunctions that respect orders would to a large extent replace and is not unusual for civil orders that do not make breach a criminal offence. It can, however, be contrasted with the approach taken with ASBOs, the last free-standing ASB measure breach of which would be an imprisonable offence, which would only be made if the court was satisfied that the order was “necessary to protect persons ... from further anti-social acts”.<sup>66</sup>
68. Liberty argue that the ‘just and convenient’ test should be replaced with “a test of necessity and proportionality, focused on preventing serious harm.”<sup>67</sup> This is because there is a “significant risk that broad criteria (“just and convenient”) and subjective interpretation could lead courts to impose disproportionate measures.”
69. Justice agreed:

[V]ague language within statutory tests is a barrier to courts imposing orders and leads to inconsistent approaches across the country. Courts are more familiar with the test of necessity and proportionality, which is in keeping with the test used in other types of Behavioural Control Order including Serious Disruption Prevention Orders, Knife Crime Prevention Orders, Domestic Abuse Protection Orders and Sexual Harm Prevention Orders, amongst others. Explicitly referring to necessity and proportionality ensures that the conditions/requirements imposed by the Respect Order are appropriate and tailored to the particular facts of the case and makes sense in light of the requirement for a risk assessment to be conducted.<sup>68</sup>

---

65 [CPB0025](#)

66 Section 1, Crime and Disorder Act 1998

67 [CPB0008](#)

68 [CPB0023](#). We note that the test applicable to Criminal Behaviour Orders is a lesser one, namely whether “the court considers that making the order will help in preventing the offender from engaging in” ASB. However, we also note that a CBO can only be made where the court is already dealing with the offender for a criminal offence.

70. The proposed test of necessity and proportionality is consistent with human rights standards. Insofar as any measures within a respect order represent an interference with the recipient's right to respect for their private life under Article 8 ECHR or their rights to free expression or free association under Articles 10 or 11 ECHR, the measures must meet the requirement of being "necessary in a democratic society" in order to be compatible those rights and lawful under the HRA. To meet this requirement any measure must be proportionate to the legitimate aim being pursued - here the protection of victims from ASB. Inviting the courts to impose a respect order whenever "just and convenient" risks this standard of proportionality being missed.

71. **CONCLUSION**

The respect order resurrects the direct criminal consequences of the ASBO while retaining the lesser procedural protections of the anti-social behaviour injunction. While it is important that anti-social behaviour is addressed, this should not come at the cost of procedural fairness. An unfair process inevitably risks respect orders being imposed without justification.

72. **CONCLUSION**

Taking into account the proceedings as a whole, we have concerns about their compliance with principles of procedural fairness and Article 6 ECHR (the right to a fair trial). This is particularly the case given that respect orders would be available where anti-social behaviour, or even just the threat of it, has been proved to the civil standard of proof (i.e. on the balance of probabilities) and the court has concluded that an order is just and convenient (not 'necessary' or 'proportionate'). Also, given that they are civil orders, the civil rules on hearsay evidence apply (potentially making it harder for the respect order recipient to dispute evidence against them and overcome the lesser standard of proof). Finally, the consequence of receiving a respect order is particularly significant, given that breach constitutes a criminal offence punishable by imprisonment.

73. **CONCLUSION**

As part of the review we have proposed into the use of respect orders and their compliance with human rights standards, the Government should keep both the test for imposing a respect order and the standard of proof under careful review.

## Other ASB measures

### Public Spaces Protection Orders

- 74.** Public Spaces Protection Orders (‘PSPOs’) were introduced under the Anti-social Behaviour, Crime and Policing Act 2014.<sup>69</sup> A local authority can issue a PSPO when satisfied on reasonable grounds that two conditions are met. Firstly, that activities have been (or are likely to be) carried out in a public place which have a detrimental effect on the quality of life of those in the locality. Secondly, that the effect of those activities is (or is likely to be) of a persistent or continuing nature, and is such as to render those activities unreasonable and justify the restrictions imposed.<sup>70</sup> A local authority must carry out consultation with the police and any community representatives it considers appropriate before putting the PSPO in place. It must also have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the ECHR.<sup>71</sup>
- 75.** A PSPO can both prohibit specified activities from taking place in the specified public place or require specified activities to be carried out in order to prevent or reduce the relevant detrimental effect. For example, PSPOs can be issued to prohibit the drinking of alcohol in a particular locality or to require dog walkers to keep their dogs on leads; but have also been used to ban less obvious activities such as climbing trees, picking fruit or even damaging dead vegetation.<sup>72</sup> PSPOs can be in place for significant periods. They can be in effect for up to three years, and can be (repeatedly) extended for further periods of up to 3 years if considered necessary.<sup>73</sup> Failure to comply with a PSPO without reasonable excuse is a criminal offence, currently punishable by a fine of up to £1000.<sup>74</sup> Fixed penalty notices (FPNs) may also be issued, by authorised persons, to people reasonably believed to have breached the terms of a PSPO.<sup>75</sup> The maximum fine that can be given by way of an FPN is currently £100.
- 76.** PSPOs have the potential to be used in respect of behaviour that may engage ECHR rights such as the right to respect for private and family life under Article 8 (e.g. prohibitions on social gatherings), and the rights to

---

69 [Anti-social Behaviour, Crime and Policing Act 2014, Part 4, Chapter 2](#)

70 [Anti-social Behaviour, Crime and Policing Act 2014, section 59](#)

71 [Anti-social Behaviour, Crime and Policing Act 2014, section 72](#)

72 [A PSPO issued by Rugby Borough Council, covering the Newbold Quarry Nature Reserve until October 2025](#), makes it a criminal offence to inter alia: “Climb or ascend any tree or climb or place a ladder or steps against any tree”; “Remove or displace any tree, plant, shrub, fungus or part thereof”; “Take, disturb, injure or destroy any living creature...”; or “Remove, cut or damage any plant or vegetation whether living or dead.”

73 [Anti-social Behaviour, Crime and Policing Act 2014, section 60](#)

74 [Anti-social Behaviour, Crime and Policing Act 2014, section 67](#)

75 [Anti-social Behaviour, Crime and Policing Act 2014, section 68](#)

free expression and assembly under Articles 10 and 11 (e.g. prohibitions on political gatherings and protests). For example, a PSPO issued by Carlisle Council includes a ban on ‘congregating in a car park for the purposes of socialisation without permission’ while Greenwich Council have simply banned “gathering with others” in any car park.<sup>76</sup> The Christian Legal Centre provided evidence to the JCHR’s previous inquiry into the Criminal Justice Bill, in which they raised particular concerns about PSPOs and the heavy-handed treatment of “[p]ublic speech over contentious issues such as abortion, the Christian moral view on sexuality, and the truth of Christianity (or lack of truth of different world religions)”.<sup>77</sup>

## Community Protection Notices

- 77.** Community Protection Notices (‘CPNs’) were also introduced by the 2014 Act.<sup>78</sup> CPNs can be issued by police officers or local authorities to a person aged 16 or over, a business or an organisation that has engaged in persistent and unreasonable conduct that has had a detrimental effect on the quality of life of those in the locality. A written warning must be given before a CPN can be issued. A CPN can require the individual or body to whom it is addressed to stop doing a specified activity, to do a specified activity, or to take reasonable steps to achieve a specified result. For example, a CPN can be issued to prevent a household from continuing to produce noise nuisance or to require a household to clean up rubbish from their front garden. Failure to comply with a CPN without reasonable excuse is a criminal offence, punishable by a fine (limited to a maximum of £2,500 for an individual).<sup>79</sup> As with PSPOs, an authorised person can issue a fixed penalty notice (FPN) of up to £100 to anyone who they have reason to believe has breached a CPN.

## Changes in the Bill - fixed penalty notices

- 78.** The JCHR has previously received evidence raising significant concerns about PSPOs and CPNs, largely focused on the low threshold that needs to be satisfied for obtaining them and the breadth of restrictions they can impose.<sup>80</sup> PSPOs can be introduced by local authorities without any supervision from the courts. They can be imposed as a result of

---

76 [The City Council of Carlisle Public Spaces Protection Order - \(No.1\) 2021](#); Royal Borough of Greenwich - [How the Royal Borough tackles anti-social behaviour](#)

77 Christian Legal Centre written evidence to JCHR inquiry into the Criminal Justice Bill (CJB0003). For more examples see , [“PSPOs: the use of ‘busybody’ powers in 2022”](#), 19 July 2023

78 Anti-social Behaviour, Crime and Policing Act 2014, Part 4, [Chapter 1](#)

79 Anti-social Behaviour, Crime and Policing Act 2014, [section 48](#)

80 See, for example, the evidence of the Manifesto Club submitted for the JCHR’s legislative scrutiny of the Criminal Justice Bill: [CJB0005](#)

any behaviour deemed detrimental to quality of life, unreasonable and persistent, or even behaviour deemed “likely” to have these qualities. CPNs, which target individuals rather than locations, are also introduced without the involvement of the courts.

- 79.** Research carried out by the Manifesto Club, using the Freedom of Information Act, found that during 2023 298 local authorities issued between them 19,162 FPNs for breach of a PSPO.<sup>81</sup> They also found that 98 councils had imposed CPNs, with 1,541 FPNs issued for their breach.<sup>82</sup> Given the potential for PSPOs and CPNs to include restrictions that may be overly broad and even inconsistent with human rights, and to do so with no oversight from the courts, it is of concern how frequently their breach is dealt with by way of fixed penalty notice – which also involves no external oversight unless refused (which brings with it the risk of higher penalties and costs). Substantial fines for behaviour that would not generally be considered worthy of criminal sanction give rise to concerns about proportionality.
- 80.** Authorised persons who may issue FPNs include private enforcement companies, which has in the past given rise to concerns about incentivised and overzealous enforcement.<sup>83</sup>
- 81.** The Bill would increase the maximum penalty that can be imposed by authorised persons by way of FPN (i.e. an ‘on-the-spot’ fine) from £100 to £500. Chief Constable Hobrough, Chief Constable of Gwent Police and representative of the National Police Chiefs Council, described this increase as “a deterrent” but acknowledged that:

In a world where we have so much austerity, where we have a lot of areas that have deprived communities with considerable other pressures, being cognisant of the difficulties of people’s lives in general is important. Any sanction, though it has to be a deterrent, has to be proportionate too.<sup>84</sup>

- 82.** Rebecca Bryant of Resolve also described the proposed increase in the maximum penalty that can be issued by FPN as a deterrent, but noted that further data might be needed to establish whether it is effective:

...the threat of saying, “Well, if you continue to behave in this way it could result in a fine of up to £500”, would, in most cases, act as a deterrent.

---

81 Manifesto Club, [PSPO fines jump 42% in 2023](#), 6 December 2024

82 Manifesto Club, [1500 people fined for breaching ‘busybody’ orders](#), 27 January 2025

83 Daily Telegraph, [Most councils employing private police forces pay them per fine](#), 21 August 2022; Big Issue, [“I was fined £100 for dropping crisps”: How a private firm is making millions from littering fines](#), 2 December 2023

84 [Q16](#)

One of the things that we talked about in the previous panel that is missing is around the data and whether things work. You will notice that in the Bill there is going to be mandated data collection from the Home Office...You will be able to see whether it is actually a meaningful deterrent in the future.<sup>85</sup>

83. Dr Black observed that “until we know what the threshold is for there to be a deterrent effect, increasing it is just going to penalise people who do not have the money to pay.”<sup>86</sup> She also referred us to evidence that she had gathered in the course of her work suggesting fines may not be effective when dealing with some forms of ASB:

In the evidence we gathered, particularly around PSPOs, we primarily looked at people experiencing street homelessness. They were getting fines and they were just not being paid because they did not have any money to pay them. Increasing fines in that context is going to do little to change that situation.<sup>87</sup>

84. Written evidence from Crisis raised further concerns about the impact of increased fines on homeless people:

Our experience supporting thousands of people who are homeless and at risk leads us to understand that increasing fines for breaches of PSPOs and Community Protection notices will be [in]effective, and we are concerned about the impact that increased financial penalties will have on people who are experiencing homelessness and poverty. We see in our services that fines that become debts can act as a barrier for people to stable housing and affect their ability to move on from homelessness in the future.<sup>88</sup>

85. **CONCLUSION**

Broad prohibitions and requirements can be imposed under Community Protection Notices, which bind individuals, and under Public Spaces Protection Orders, which bind the general public. Their imposition receives limited scrutiny unless they are legally challenged. If their breach is punished by way of fixed penalty notice, handed out by authorised persons employed by local authorities, there is a further lack of oversight.

---

85 [Q16](#)

86 [Q5](#)

87 [Q5](#)

88 [CPB0026](#)

86.

**CONCLUSION**

While deterring individuals from engaging in anti-social behaviour is obviously valuable, it is not clear that an increase in the fines that can be imposed by way of FPN will have such an effect. Furthermore, the lack of oversight leaves open the risk that fines up to £500 may be imposed on the spot without justification, and potentially in breach of the proportionality required under the Human Rights Act.

87.

**RECOMMENDATION**

The Government should conduct an urgent review of the use of community protection notices and public spaces protection orders, and particularly the use of fixed penalty notices for breach, to determine their efficacy and whether they are being applied and enforced proportionately and with due regard to the circumstances, including the socio-economic circumstances, of those affected.

---

## 3 Public order

### The right to protest

88. As the Joint Committee on Human Rights has previously noted, the right to peaceful protest is a fundamental right in a healthy democracy, which must be championed and protected.<sup>89</sup> The UN Human Rights Council’s General Comment on the right to peaceful assembly states:

The fundamental human right of peaceful assembly enables individuals to express themselves collectively and to participate in shaping their societies... it also constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism.<sup>90</sup>

89. The right to gather together to participate in peaceful protest is given protection in a wide range of international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the ECHR.<sup>91</sup> The central protection for the right to protest in domestic law is now the Human Rights Act 1998, which has incorporated the rights guaranteed by the ECHR.
90. The right to protest peacefully is guaranteed under a combination of Article 10 ECHR, freedom of expression, and Article 11 ECHR, freedom of association and assembly. Article 10 ECHR protects the expression of opinions in the form of protest, including “not only the substance of the ideas and information expressed, but also the form in which they are conveyed”. The European Court of Human Rights (ECtHR) has placed particular emphasis on the importance of political free expression: “in a democratic society based on the rule of law, political ideas which challenge the existing order and whose realisation is advocated by peaceful means must be afforded a proper opportunity of expression.”

---

89 Joint Committee on Human Rights, First Report of Session 2022–23, [Legislative Scrutiny: Public Order Bill](#), HC 351, HL Paper 15, p7

90 Human Rights Committee, [General Comment No.37 \(2020\) on the right of peaceful assembly \(article 21\)](#), CCPR/C/GC/37

91 Article 21 of the ICCPR – see also the Universal Declaration of Human Rights (art. 20 (1)); the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (art. 11); the American Convention on Human Rights (art. 15); and the African Charter on Human and Peoples’ Rights (art. 11).

91. The Article 11 right to freedom of peaceful assembly extends to gathering together for a common purpose in private or in public, and being able to choose the time, place and form of the gathering.
92. The ECHR protects only the right to *peaceful* assembly. Violent protest and events organised with violent intentions will not receive the protection of Article 10 and 11. An individual who remains peaceful will not, however, lose the protection of the Convention merely because other participants in a demonstration engage in sporadic violence. Furthermore, while protests which foreseeably or intentionally impede the activities of others are not “at the core of the right to peaceful assembly in Article 11 of the Convention such obstructive or disruptive conduct might still be protected by that provision.”<sup>92</sup>
93. Even if engaged, Article 10 and 11 ECHR are qualified rights and therefore allow for restrictions as long as those restrictions are prescribed by law and are a proportionate way of achieving a legitimate aim, such as protecting the rights and freedoms of others.<sup>93</sup>

## Context of substantial change to public order law

94. The Bill would make a number of changes to the law concerning peaceful protest. While these changes are not fundamental in themselves, they represent the latest in a series of legislative changes that place restrictions on peaceful protest. Indeed, this is the third time that the JCHR has reported on Bills changing the law on public order in less than five years.
95. Amnesty International elaborated on this point in their written evidence to us:

[O]ver the last few years, the previous UK government passed a raft of laws for England & Wales which expressly targets the exercise of peaceful protest rights... [T]his began with the Police Crime Sentencing and Courts Act 2022, which amongst other things substantially expanded police powers to impose restrictions on protests and arrest people for breach of those restrictions as well as substantially increasing maximum sentences for peaceful protest offences particularly ‘public nuisance’ and ‘wilful obstruction of the highway’. This was followed the next year with the Public Order Act 2023, an act

---

92 Laurijsen and Others v. the Netherlands, 2024, §§ 54–59

93 “A balance must be always struck between the legitimate aims listed in Article 11 § 2 and the right to free expression of opinions by word, gesture or even silence by persons assembled on the streets or in other public places” see *Ezelin v. France*, 26 April 1991, § 52, Series A no. 202.

which started life as late-stage amendments to the PCSC Bill which were voted down by the House of Lords. This Act created a range of new peaceful protest offences, expanded police powers of stop and search with and without suspicion in connection with protests, created a system of protest banning orders to be used against individuals and created a new and substantially lower threshold for what would constitute ‘serious disruption to the life of the community’ caused by a protest...

[the changes in this Bill] must therefore be understood in their broader context, as part of an ongoing and far-reaching legislative crackdown on the exercise of peaceful protest rights.<sup>94</sup>

96. As noted to us by Amnesty, the Public Order Act attracted attention from the UN High Commissioner on Human Rights, who criticised it as imposing “serious and undue restrictions on [rights to freedom of expression, peaceful assembly and association] that are neither necessary nor proportionate to achieve a legitimate purpose as defined under international law.”<sup>95</sup> The JCHR was also critical of both the Police, Crime Sentencing and Courts Bill and the Public Order Bill for threatening the balance struck between respect for the right to protest and protecting other parts of the public from disruption.<sup>96</sup>
97. It is against this backdrop of significant recent alterations in the law governing protest, some giving rise to substantial concerns over civil liberties and human rights, that we consider the changes to the law governing public order proposed in this Bill.

98. **CONCLUSION**

This is the third piece of primary legislation changing the law on public order on which the JCHR has reported in less than five years. Given the importance of free expression and free assembly to a healthy democracy, the Joint Committee on Human Rights is concerned by the volume of recent change to the law on protest.

---

94 [CPB0021](#)

95 Press Release, Office of the High Commissioner for Human Rights, [UN Human Rights Chief urges UK to reverse ‘deeply troubling’ Public Order Bill](#), 27 April 2023

96 Joint Committee on Human Rights, Second Report of Session 2021–22, [Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 \(Public Order\)](#), HC 331, HL Paper 23; Joint Committee on Human Rights, First Report of Session 2022–23, [Legislative Scrutiny: Public Order Bill](#), HC 351, HL Paper 16

**99. RECOMMENDATION**

We recommend that the Government should conduct post-legislative review of the impact of this Bill, the Public Order Act 2023 and the public order elements of the Police, Crime, Sentencing and Courts Act 2022 on the exercise of the right to protest before embarking on any further legislative change in this area.

## Concealing identity

- 100.** Clauses 118 to 120 of the Bill would give the police a power to designate an area for up to 24 hours, within which it would be a criminal offence to wear or otherwise use an item that conceals identity (either the identity of the person wearing or using the item, or the identity of another). The Bill provides a defence to someone who has been charged with this offence, if they can prove that they were wearing or using the item for a purpose relating to health, religious observance or their work.
- 101.** The new power to designate an area for this purpose would be available where the designating officer<sup>97</sup> reasonably believes (a) that “a public assembly, or public procession, which constitutes a protest may take place or is taking place in the locality”, (b) that the protest is likely to involve the commission of offences and (c) that it is “expedient” to designate the locality to prevent or limit offences.

## Need for change?

- 102.** Under the Criminal Justice and Public Order Act 1994 a senior police officer can already designate an area when he reasonably believes (i) that offences are likely to occur within it and (ii) that a power to require the removal of disguises would be useful in that area. Once the area is designated, officers are entitled within it to require individuals to remove, and to seize, any item reasonably believed to be worn wholly or mainly for the purpose of concealing their identity.<sup>98</sup> It is a criminal offence, for which a person can be arrested, not to remove an item when required to do so.
- 103.** The reason why this very similar existing law is considered to be insufficient is explained in the Explanatory Notes:

The police have expressed concern that the current provisions are not sufficient to prevent people wearing face coverings at protests for the purpose of concealing their identity, with the intention of avoiding detection or conviction for criminal behaviour. In their experience, individuals may follow the initial direction of an officer to remove

<sup>97</sup> Whose rank must be at least that of inspector - clause 109(1)

<sup>98</sup> Section 60AA, Criminal Justice and Public Order Act 1994

their face covering, but they can then move to a new area of the crowd and redeploy the face covering shortly afterwards. Once this has happened, police officers cannot always tell which individuals have already been directed to remove a face covering (and who are therefore committing an offence by wearing it again).<sup>99</sup>

- 104.** Chief Constable Hobrough also explained to us that the existing law's focus on items being 'worn' creates a gap:

where people are concealing their identity by wearing placards very near their faces or by holding masks in front of their faces, but not actually putting them on. Those give us gaps in the existing legislation where officers do not have the rights to actually reveal identities.<sup>100</sup>

- 105.** The Chief Constable also gave us an insight into why capturing the identity of protesters is important to the police:

We are ever more reliant on technology and automatic facial recognition potential retrospectively for offences that are caused. It gives us that opportunity to address criminality when it happens, so that we do not have future issues with the same individuals with no penance.<sup>101</sup>

- 106.** We were reminded by witnesses, including Professor Tony Blockley, that anonymity may be sought by protesters for legitimate as well as for nefarious reasons:

Anonymity can be essential for certain individuals who wish to exercise their right to protest without fear of harm or retaliation. Whistleblowers, survivors of abuse, or persons facing political or social risk may rely on face coverings to protect their identity. At the same time, it is evident that face coverings have been used in some protest contexts to shield individuals engaged in criminal acts from identification and prosecution ... The balance struck by these clauses must ensure that the protective purpose of anonymity in lawful protest is not inadvertently undermined by measures aimed at criminal prevention.<sup>102</sup>

---

99 Explanatory notes, para 139

100 [Q18](#)

101 [Q18](#)

102 [CPB0005](#)

## Human rights

- 107.** It is important to recall that the ECHR recognises only a right to engage in peaceful protest. Those using an item in a way that conceals identity as part of an attempt to terrorise, intimidate or evade legitimate arrest will not get any assistance from Article 10 or 11 ECHR. However, for those who wish to conceal their identity for legitimate reasons, or do so unintentionally, criminalising them may interfere with their right to engage in peaceful protest under Articles 10 and 11 ECHR, and potentially also the right to respect for privacy under Article 8 ECHR .
- 108.** Articles 10 and 11 ECHR are particularly relevant to the proposed offence because it is expressly targeted at gatherings that constitute “a protest”. Use of the new offence may result in individuals being criminalised for participation in a protest and others may be dissuaded from exercising their right to protest due to their fear of arrest or prosecution. It is important to recall that even sporadic violence, which might be enough for the police to designate an area for the purposes of criminalising concealing identity, does not deprive other peaceful members of a protest their Article 10 and 11 rights. If Articles 10 and 11 ECHR and the right to engage in peaceful protest are engaged, any action taken must comply with the requirements of Article 10(2) or 11(2), which means it must be prescribed by law and a proportionate way of achieving a legitimate aim.

**109. CONCLUSION**

We agree that the police should be able to take action against individuals using masks to intimidate others and to evade arrest. However, there may be legitimate reasons for actions that conceal identity at a protest. It is important that the law does not disproportionately interfere with human rights, including the right to engage in peaceful protest.

## In accordance with the law

- 110.** The requirement that any interference with the exercise of the right to protest is “prescribed by law” requires not only that there be a legal basis for the interference, but also that the law in question must be accessible to the persons concerned and foreseeable as to its effects.
- 111.** One of the requirements that must be satisfied before an area can be designated for the purposes of the new concealment offence is for the police to reasonably believe “a public assembly, or public procession, which constitutes a protest may take place or is taking place in the locality”. The Bill contains no definition of the term “protest”. While it is a term widely used, the Joint Committee on Human Rights has previously observed that it

can be difficult to establish whether or not an event is indeed a “protest”.<sup>103</sup> For example, the Sarah Everard vigil on Clapham Common in March 2021, which resulted in clashes between police and those attending, was for some a protest about the behaviour of police whilst for others it was a gathering to commemorate Sarah Everard’s death.

- 112.** The way that the Bill is drafted indicates that the police need only reasonably believe that an assembly or procession is or will be a “protest”, but testing the reasonableness of this belief still requires a clear idea of what does and does not amount to a protest. We also note that clause 121 of the Bill makes it an offence to possess a pyrotechnic article at a procession or assembly that constitutes a protest. This clause does not qualify the term “protest” with reasonable belief. It thus requires the procession or assembly to be a protest as a matter of law or the criminal offence will not be made out. Establishing the meaning of “protest” thus becomes crucial.
- 113.** The ordinary meaning of “protest” suggests dissent, opposition or disapproval.<sup>104</sup> Chief Constable Hobrough also viewed it as “basically a culmination of someone showing their dissatisfaction for a particular cause.”<sup>105</sup> It is unclear, then, whether the power could be used in relation to a gathering in support of something. This could prove problematic. During the passage of the Terminally Ill Adults (End of Life) Bill, people have gathered in Parliament Square waving banners expressing their opposition to the Bill, but alongside them people have gathered to express their support of the Bill. Police powers to control the assembly should not depend on which of these views is being expressed.
- 114.** Professor Tony Blockley shared our concerns over the lack of certainty in the term “protest” and proposed that the Bill should include a definition:

The Bill should include a statutory definition of “protest” that provides sufficient clarity to prevent overbroad or inconsistent interpretation. Without a defined threshold, there is a risk that the power could be used in response to peaceful assemblies, vigils, or spontaneous public gatherings that pose no discernible threat to public order.<sup>106</sup>

---

103 Joint Committee on Human Rights, First Report of Session 2022–23, [Legislative Scrutiny: Public Order Bill](#), HC 351, HL Paper 16

104 The Oxford English Dictionary includes in its definition of “protest”: “any action, act, or statement expressing (emphatic) objection to or dissent from something” and, more specifically, “The expression of social, political, or cultural dissent from a policy or course of action, typically by means of a public demonstration” Oxford University Press. (n.d.). Protest, n. In Oxford English dictionary. Retrieved June 27, 2025, from <https://doi.org/10.1093/OED/1179909270>

105 [Q18](#)

106 [CPB0005](#)

**115.** Alternatively, certainty could be enhanced by removing the reference to ‘protest’ from the power to designate. The Public Order Act 1986 gives the police powers to impose conditions on public processions and assemblies whether or not they are also ‘protests’ and the current power to require the removal of disguises is also not restricted to protests.

**116. CONCLUSION**

Under the Bill, the power to designate an area within which it would be a criminal offence to conceal one’s identity depends on the police having a reasonable belief that a public procession or assembly “which constitutes a protest” is taking or may take place. There is no definition of “protest” in the Bill, which introduces an element of uncertainty, when the ECHR requires any interference with the right to protest to be accessible and foreseeable.

**117. RECOMMENDATION**

To improve accessibility and foreseeability, the Bill should be amended to include a definition of “protest” or alternatively the need for the procession or assembly to constitute a protest should be removed. Removing this requirement would, however, widen the reach of the offence and should be accompanied by further changes to the Bill proposed below.

## Proportionality

**118.** To comply with Articles 10 and 11 ECHR, any interference with the right to protest must also be “necessary in a democratic society” in the interests of legitimate aims including “national security or public safety”, “the prevention of disorder or crime” and “the protection of the rights and freedoms of others.” To meet this requirement the interference must meet a “pressing social need” and, crucially, must be proportionate to the legitimate aim.

**119.** There are a number of reasons why this new power and offence raise concerns about proportionality. Firstly, the threshold for designation is very low. In his evidence to us Chief Constable Hobrough stated:

I am a huge advocate of protest and of someone having the absolute rights to be able to express themselves. That is a British principle that we should long honour and respect. I am also someone who does not believe that the state should have excessive powers. It should have

proportionate powers to deal with risks and to keep the community safe. That is my fundamental cause in policing really: people have an absolute right to safety.<sup>107</sup>

**120.** The Chief Constable was then asked to confirm that he would not expect the power to designate to be exercised if it was expected that the protest would be peaceful and that it would only be used where there was “a calculated risk that it could lead to public disorder”. To this he replied “yes”.<sup>108</sup>

**121.** However, the key trigger for the power to designate is the police reasonably believing that a protest is likely to involve or has involved “the commission of offences”. No specific offences or even types of offences are mentioned, so the power is not confined to situations in which violent offences, threats to community safety or public disorder are anticipated. As Tyrone Steel of Justice noted to us:

There is no threshold in the Bill regarding the type or severity of the anticipated offences. That means that designation could be imposed even where only the anticipated offences are relatively minor... A designation that restricts protest rights must inherently be necessary and proportionate, and it is difficult to see how that test can be met where the anticipated offence could be minor or symbolic in nature.<sup>109</sup>

**122.** It is quite likely that in any large gathering, particularly one involving thousands of people, some offences will take place, whether that be drunk and disorderly behaviour, pickpocketing, drug possession or some other minor crime. Yet once such behaviour is reasonably considered likely, under the Bill as drafted a designation can take place on the basis of it simply being considered “expedient” in order to prevent or limit the commission of “offences” - again not further defined. This means the Bill as drafted gives rise to the possibility of areas being designated whenever a substantial protest takes place, rather than when there is intelligence related to a risk of violence or public disorder and to the potential for those involved to try to conceal their identities.

**123.** This was a point raised with us in the evidence of Amnesty:

It is notable that the power is worded in such a way that the ‘likelihood’ of any quantity of offences of any severity would be sufficient to justify the imposition of the ban. Yet, in practical terms a large protest march in London involving tens or hundreds of thousands of people (as has been common recently) will almost inevitably bring with it a ‘likelihood’ that a small number of offences will occur... Given the scale at which

---

107 [Q18](#)

108 [Q18](#)

109 [Q8](#)

face coverings are routinely worn on protests, the effect of these new powers will be to turn otherwise lawful exercises of the rights to freedom of expression and assembly into mass criminal events. This will in turn necessitate a much more heavy-handed police response to protests.<sup>110</sup>

- 124.** Concerns about proportionality also arise from the scope of the offence itself, which covers wearing or otherwise using any item that *has the effect* of concealing identity. The Criminal Justice Bill brought forward by the previous Government included a very similar provision, but for an offence to be committed that Bill required the individual to be wearing the item *for the purpose* of concealing identity. Removing this requirement means unintentional concealing of identity could amount to an offence. We agree with Amnesty that “the wording of the proposed ban is so broad as to encompass people who are wearing a scarf on a cold day”.<sup>111</sup>
- 125.** As previously noted, Chief Constable Hobrough gave the Committee examples of where the new power would be useful. He identified as potential targets “people... concealing their identity by wearing placards very near their faces or by holding masks in front of their faces, but not actually putting them on”.<sup>112</sup> It is notable that these are instances of people deliberately concealing their identity, which would be covered by an offence that included an element of intention.
- 126.** The Bill does include a defence to a charge of having an item that has the effect of concealing identity. However, this defence does not cover inadvertent or accidental concealing of identity. It is limited to those who can prove that they wore or otherwise used the item for the purposes of health, religion or work. While it is important to recognise that identities may be concealed legitimately for these purposes, there are, as previously noted, other justifications for concealing identity.
- 127.** Amnesty argue that wearing a face covering at a protest may well be entirely legitimate:

...it is important to emphasise that it is a common, peaceful and entirely legitimate act to wear a face covering at a protest, and there is no justification for a presumption that someone wearing a face covering at a protest is intent on violence or other serious criminality. People wear face coverings for multiple reasons, including religious and health reasons, but also out of concern for racial profiling and the increasing police reliance on deeply flawed facial recognition technology. Others may be afraid of family, community members

---

110 [CPB0021](#)

111 [CPB0021](#)

112 [Q18](#)

or employers finding out about their legitimate political views or actions. Many people who Amnesty International works with wear face coverings at protests because they are political dissidents concerned for their safety or the safety of their family if their political activities are identified by agents of the state they have fled.<sup>113</sup>

**128.** This last group who may have legitimate reasons for concealing their identity has particular resonance given the JCHR's inquiry into transnational repression.<sup>114</sup> During this inquiry we heard of many harrowing cases of individuals facing persecution for speaking out against foreign regimes. Looking beyond the risk of transnational repression, fear of repercussions for revealing political, sexual or religious views may in some circumstances be justified and understandable. Concerns were also raised about the use of automatic facial recognition technology.<sup>115</sup> An individual exercising their right to protest who has any of these fears or concerns would, where the locality has been designated by the police, be required to remove the item concealing their identity or be committing a criminal offence.

**129.** Even for those who conceal their identities for health, work or religious reasons, the Bill provides only a defence to a charge. This means an individual may still face arrest and removal from the demonstration, preventing them exercising their Article 10/11 rights. Furthermore, the burden of proving this defence would be on the defendant, raising the possibility of a person who genuinely has a legitimate work, religious or health reason for concealing their identity still being arrested or even convicted because they were not able to prove this. As Amnesty noted, the approach taken in relation to the offence of concealing identity can be contrasted with a different approach taken in another public order measure within the Bill:

while [the Bill] has introduced a form of exemption for religious or health or work reasons, it has made this a defence to a charge, which implies that a person could and would still be lawfully arrested for wearing a religious or health covering and would be required to prove their religious or health reason to the satisfaction of the CPS or a magistrate. This can be contrasted with the wording of the exemption from the ban contained in clause [121] of the same bill for possession of pyrotechnics at a cultural or religious event [which]... is worded in a way that makes clear that no arrest should take place, by stating that 'no offence is committed' if a pyrotechnic is possessed in the relevant circumstances.<sup>116</sup>

---

113 [CPB0021](#)

114 [Transnational repression in the UK](#)

115 [CPB0021](#)

116 [CPB0021](#)

130. Liberty noted that the offence was likely to have a disproportionate impact on Muslim women and disabled protesters wearing face covering and that:

The lack of a prior exemption for religious or medical face coverings—only allowing a defence after arrest—risks both rights violations and discriminatory enforcement.<sup>117</sup>

131. Article 14 ECHR prohibits unjustified discrimination (including indirect discrimination) in the enjoyment of other rights in the Convention, such as the right to protest as protected by Articles 10 and 11. While the available defence goes part way to protecting against indirect discrimination, given the lack of prior exemption and the reverse burden of proof this new offence could still have a discriminatory impact. More broadly, it could have a chilling effect on the exercise of the right to protest by those with legitimate reasons to wear or otherwise use an item that conceals their identity.

132. **CONCLUSION**

We recognise that the wearing of masks at protests can be intimidating, and that concealing identity can be used as a method of evading criminal responsibility. Nevertheless, the law must provide adequate protection against the unjustified criminalisation of peaceful protesters.

133. **RECOMMENDATION**

To achieve this, steps should be taken to provide additional safeguards for Convention rights:

- a. The Bill should be amended so that the police can only designate an area within which it would be a criminal offence to conceal one's identity if they reasonably believe that offences involving violence or public disorder are likely to occur. Specific guidance must also be given to the police on the need to take into consideration before arrest that individuals may wear items that have the effect of concealing identity for legitimate reasons, including in particular religious and health reasons.
- b. A defence of reasonable excuse should be added to the Bill.

Draft amendments to the Bill to include these additional safeguards are set out in the Annex to this report.

## Places of worship - restrictions on protest

- 134.** Under the Public Order Act 1986, the police have the power to impose conditions on public assemblies and processions, including on their location, timing, numbers etc. These conditions can only be imposed where a senior officer reasonably believes that the assembly or procession may result in serious public disorder, damage to property or disruption to the life of the community; that the purpose of the organisers is to intimidate others into doing something or not doing something; or (since the Police, Crime Sentencing and Courts Act 2022 and in respect of England & Wales only) that it will involve noise that may cause serious disruption, intimidation, harassment, alarm or distress. These are often referred to as the ‘triggers’ for imposing conditions.<sup>118</sup>
- 135.** Clause 124 of the Bill would introduce an additional trigger (in England & Wales): where the police reasonably believe that an assembly, procession or one-person protest is “in the vicinity of a place of worship” and “may intimidate persons of reasonable firmness” resulting in them being deterred from accessing that place of worship for the purpose of carrying out religious activities or from carrying out those activities.
- 136.** The Government has explained that
- These changes will build on existing laws under the Public Order Act, providing a new threshold for officers to be able to impose conditions – including on the route and timing of a march – where the effect of the protest is to intimidate those attending a place of worship. This will give the police total clarity on how and when they can protect religious sites from the types of protest designed to disrupt them.<sup>119</sup>
- 137.** The ECHR guarantees the right to freedom of thought, conscience and religion under Article 9. This includes the right for an individual “to manifest his religion or belief, in worship, teaching, practice and observance”. It is therefore important from a human rights perspective for the state to take steps to protect against actions that intimidate people seeking to manifest their religion through worship. However, where those steps impact on the right to protest, also guaranteed by the ECHR, it is crucial that there are adequate safeguards to ensure both rights are appropriately balanced.

---

118 Some of these triggers also allow for restrictions to be placed on “one-person protests”, see s14ZA of the Public Order Act 1986

119 Home Office press release: [Places of worship to be protected from intimidating protests](#), 27 March 2025

- 138.** We note that the power to impose conditions on assemblies and processions does not prevent them going ahead, but by moving them and limiting their numbers or duration it can severely diminish their effect and thereby undermine the right to protest. We are also mindful that there may be situations in which a peaceful protest may legitimately target a place of worship, such as a peaceful protest about sexual abuse by clergy or about the treatment of minorities within a faith.

## Is change necessary?

- 139.** Existing powers available to the police already appear to allow them to impose conditions on most demonstrations that intimidate people who wish to engage in worship. Existing triggers under the Public Order Act allow the police to impose conditions where they reasonably believe:
- a.** A procession or assembly may, by way of physical obstruction, pose a more than minor disruption to accessing a place of worship<sup>120</sup> or a more than minor hindrance to carrying out day-to-day activities (which would appear to include acts of worship);
  - b.** The purpose of the persons organising a procession or assembly is the intimidation of others with a view to compelling them not to do an act they have a right to do (which would include acts of worship); and
  - c.** The noise of a procession of assembly would seriously disrupt the activities of an organisation (including religious activities) or significantly intimidate, harass, alarm or distress those who hear it (including worshippers).
- 140.** One area where the new power would allow the police to restrict protest when they currently cannot is where it is reasonably believed a demonstration may have the effect of intimidating people so as to deter them from religious activities but not as a result of physical obstruction or noise and not where it is believed this is the purpose of the organisers.
- 141.** Chief Constable Hobrough provided us with some detail on why this new power may be needed:

In the last 15 months, we have seen that many members of faith communities actually avoid coming into their town centres, their city centres or around their own religious premises, when they know there are days of protest. That cannot be right. There is a fundamental right for people to have that ability to attend their religious premises. What is likely to happen with this is it would give us the ability to talk about

---

<sup>120</sup> See section 12(1)(a), 12(2A) and 12(2B) (processions) and 14(1)(a), 14(2A) and 14(2B) (assemblies)

turnup times, locations and access routes. It would give a real clarity for us to put in those provisions around allowing a protest to happen, but not at the expense of another group of individuals who have a right to access their own religious buildings and faith communities. It would be a very useful addition for us.<sup>121</sup>

- 142.** In contrast, Amnesty noted in their evidence to us their concerns about the breadth of the new power:

What distinguishes this new proposal, then, is first that it does not require any element of intention, or even reasonable suspicion of intention, on the part of protesters to intimidate. It is enough for police officers to consider that a protest ‘may’ intimidate someone into not accessing a place of religious worship. This is therefore a prospective power which entitles the police to interfere with a peaceful and otherwise lawful protest, on the grounds of its possible impact on the emotional state of others...<sup>122</sup>

- 143.** While we recognise the concerns raised by Amnesty, we accept that there may be circumstances in which a protest may be intimidating, and therefore placing conditions on it justified, even where intimidation is not the purpose of those organising the protest. We do, however, have concerns about the key question for the police under the proposed new trigger, i.e. whether an assembly or procession “may intimidate”. If the police are approached in advance of a demonstration by worshippers who assert that they are or will be intimidated, it appears hard for the police in practice to nevertheless conclude that this low threshold is not met and refuse to act. This may be the case even if no evidence is available to indicate that the demonstration will be anything other than peaceful.

- 144.** Chief Constable Hobrough told us how the police would ensure that the right to protest is protected in such a scenario:

My colleagues across the country are very well versed in relation to proportionality, and they would interpret what they are seeing, feeling and hearing on the ground. The audit trails and the reflective learning that happen after dealing with protests and public order scenarios are rigorous. We are on a continuous learning cycle. I do not want to say that people are reticent about using their powers, but they definitely think carefully about them so that they are not seen as overzealous. They think much more about not just dealing with the protest on the day, but the long-term community cohesion consequences. Striking the balance is very important.<sup>123</sup>

---

121 [Q21](#)

122 [CPB0021](#)

123 [Q21](#)

**145.** While we acknowledge how well versed the police are in balancing the rights of protesters and the wider public, a tighter threshold for the availability of the power to impose conditions could help avoid such a difficult scenario.

**146. CONCLUSION**

We recognise that protests have the potential to intimidate and interfere with the right to manifest one's religion through worship. However, the right to protest peacefully must also be respected. We agree with evidence we received that it is important that the right balance is struck between these rights, which means that not all claims of intimidation can trump protest arrangements.

**147. RECOMMENDATION**

To help ensure the right balance is struck between the right to protest and the rights of people to worship without intimidation, the Bill should be amended so that the police can impose conditions when they reasonably believe that an assembly or procession "would intimidate persons of reasonable firmness" rather than "may intimidate persons of reasonable firmness". Draft amendments to achieve this are included in the Annex to this report.

---

## 4 Other issues

### Mandatory reporting of child sexual abuse

- 148.** One of the key recommendations to come from the Independent Inquiry into Child Sexual Abuse, chaired by Professor Alexis Jay CBE, was the introduction of mandatory reporting of child sexual abuse. Professor Jay, in evidence to the Home Affairs Select Committee, explained why this was one of the most important recommendations made:

Mandatory reporting is hugely important, for reasons that I think everyone will know. More than anything else, that was the response that we got from victims and survivors when we asked them. There were a very significant number—over 7,000—and by far the majority said that what would have made a difference to their experience was if there had been a trusted adult that they could approach, knowing with confidence that they would do something about it. But what happened in so many cases that we heard about was that they plucked up the courage to talk to somebody, but the abuse did not stop. They believed that this adult was going to do something, and they did nothing. That must have been devastating for children.<sup>124</sup>

- 149.** Chapter 2 of Part 5 of the Bill would introduce a new legal obligation to report suspected child sexual abuse. It would require a person, aged 18 years or over, who is involved in a relevant activity relating to children in England (i.e. any activity that involves teaching, training, looking after children or having unsupervised contact with them), to report suspicion of child sexual abuse to the police or social services if that suspicion arises from certain circumstances. A number of specific exceptions apply. The Bill would make it a criminal offence for a person to prevent or deter another person from reporting. It would not, however, be a criminal offence for a person to themselves fail to meet the duty.<sup>125</sup> Instead, a person who fails to report is at risk of being barred from working with children.

---

<sup>124</sup> Home Affairs Committee, Implementation of Independent Inquiry into Child Sexual Abuse, HC 616, 21 January 2025, [Q29](#)

<sup>125</sup> This is despite the Home Secretary stating on 6 January 2025 that 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”, [HC Deb 6 January 2025, c632](#)

- 150.** Combating child sexual abuse is crucial for protecting the human rights of children. Under Article 34 of the UN Convention on the Rights of the Child the UK has undertaken “to protect the child from all forms of sexual exploitation and sexual abuse” and under Article 19 has committed inter alia to taking “all appropriate legislative...measures” to protect children from sexual abuse. Furthermore, under the ECHR the state has a positive obligation to put in place an effective legal framework for protecting adults and especially children against inhuman and degrading treatment (which includes sexual abuse).<sup>126</sup>

## Scope of duty

- 151.** Under the Bill, the requirement to report applies only where an individual witnesses a child sex offence; where they see an image or hear an audio recording of a child sex offence; where a person (A) communicates something that would cause a reasonable person to suspect that A may have committed a child sex offence; and where a *child* communicates something that would cause a reasonable person to suspect a child sex offence may have been committed.<sup>127</sup> The Bill would not require reporting in any other circumstances. Mandate Now, a group which campaigns for mandatory reporting, told us that “the cases that would trigger the...duty are relatively rare. Most children do not or cannot disclose their abuse” and also “IICSA documented no examples of a perpetrator disclosing their abuse, either directly or by making an image or recording available.”<sup>128</sup>
- 152.** We note in particular that no obligation to report would apply where an *adult* (rather than a child) communicates something that creates a reasonable suspicion that another adult has committed an offence. While this distinction may be based on the recognised need to listen more carefully to allegations made by children, it could have perverse results. For example, if a 17 year old brought forward information indicating that

---

<sup>126</sup> See, for example, *Z v United Kingdom* [GC], 2011 at para 73:

“The Court reiterates that Article 3 enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment. The obligation on High Contracting Parties under Article 1 of the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, taken in conjunction with Article 3, requires States to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman or degrading treatment, including such ill-treatment administered by private individuals... These measures should provide effective protection, in particular, of children and other vulnerable persons and include reasonable steps to prevent ill-treatment of which the authorities had or ought to have had knowledge..”

<sup>127</sup> Clause 74

<sup>128</sup> [CPB0022](#)

an adult had committed a child sex offence it would trigger a reporting obligation, but if an 18 year old brought forward the same information (or something even more compelling) it would not.

## Failure to comply

- 153.** Recommendation 13 of the final report of the Independent Inquiry into Child Sexual Abuse, which recommended the introduction of a mandatory reporting duty, stated:

It should be a criminal offence for mandated reporters to fail to report child sexual abuse where they are in receipt of a disclosure of child sexual abuse from a child or perpetrator; or witness a child being sexually abused.<sup>129</sup>

- 154.** The Minister explained at Report stage of the Bill the reason why this recommendation from IICSA has not been followed:

...the Government do not consider that it would be proportionate to provide for a criminal sanction that may inadvertently create a chilling effect on those who wish to volunteer with children or enter certain professions...<sup>130</sup>

- 155.** The Bill instead 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 [DBS]”.<sup>131</sup>
- 156.** Mandate Now are extremely critical of the decision not to make failing to comply with the duty a criminal offence.<sup>132</sup> They contrast the approach taken to the legal obligation to report suspicions of money laundering within a regulated sector, a failure to comply with which is a crime.<sup>133</sup>
- 157.** Others take a different view. We note that Tom Crowther KC, who chaired the Independent Inquiry into Telford Child Sexual Exploitation, stated in evidence to the Home Affairs Select Committee:

---

129 [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC270, October 2022

130 [Crime and Policing Bill, Volume 769](#), 17 June 2025

131 Explanatory notes

132 [CPB022](#). Other organisations have also been critical. See, for example, the National Secular Society, [Proposed duty to report sex abuse branded ‘useless’ by campaigners](#), 4 March 2025

133 See s330, Proceeds of Crime Act 2002

I can completely understand why there is no criminal sanction there. This is about encouraging people to do the right thing, isn't it? It is a carrot-stick balance that has been made by others and seems to me to be a perfectly reasonable conclusion that has been come to.<sup>134</sup>

### Consequence of failing to comply

- 158.** The effect of the Bill's amendment to the Safeguarding Vulnerable Groups Act 2006 would mean a duty to make a referral to the DBS would apply to regulated activity providers (i.e. employers or volunteer managers of those working directly with children) and personnel providers (e.g. employment agencies supplying those who work with children) where, as a result of a failure to comply with the mandatory duty to report suspicions of child abuse, they have withdrawn permission for someone to carry out, or moved them out of, regulated activity.<sup>135</sup> Failing to comply with this duty to refer to the DBS is a criminal offence.
- 159.** We note that DBS guidance confirms that referrals can also be made to them outside of any legal duty to do so, and those referrals will be considered, but also states that any such referral should be done "in consideration of relevant employment and data protection laws" and that the person considering referring "may want to seek your own legal advice".<sup>136</sup> This qualification may well discourage many considering referral outside the legal duty.
- 160.** Mandate Now told us that the proposed consequence for failure to comply with the duty to report suspicions of child abuse, which largely relies on employers, managers or agencies to make referrals to the DBS, "cannot be regarded as a plausible or effective deterrent". They explained that:

(a) Many organisations are hostile to reporting child sexual abuse that has occurred within their organisation. IICSA stated:

"The Inquiry heard of many instances in which children who were being sexually abused made disclosures or presented information to someone within an institution, but no action was taken to inform the relevant authorities.

---

134 Home Affairs Committee, Implementation of Independent Inquiry into Child Sexual Abuse, HC 616, 1 April 2025, [Q54](#)

135 Safeguarding Vulnerable Groups Act, sections 35 and 36

136 Guidance, [Making barring referrals to DBS](#), updated 1 May 2025

A prominent reason that individuals and institutions failed to report child sexual abuse to statutory authorities was a desire to protect an individual or institution from reputational damage. Protection of reputation was particularly prevalent within religious, educational and political institutions.”

Such an organisation will not refer somebody who has assisted in protecting its reputation.

(b) Legally, an employer can easily evade the duty to make a DBS referral, simply by leaving the employee in their existing role or by claiming that the person was moved for some other reason. The Section 35/36 duty to refer for non-reporting only applies if the employer has sacked the employee or moved them to non-child-facing duties for the specific reason of non-reporting.

(c) Nobody has ever been prosecuted for not making a [relevant DBS] referral...<sup>137</sup>

161. We also note that even if a referral is made and the DBS is satisfied that an individual has failed to comply with the reporting duty, the DBS would not be required to add them to the children’s barred list unless they had concluded that it was “appropriate” to do so.<sup>138</sup> While it is reasonable to give the DBS some discretion for exceptional cases, this offers up the possibility of there being no consequence for a person who fails to comply with the duty to report suspicion of child sexual abuse even if they are referred to the DBS.

162. **CONCLUSION**

We welcome the introduction of mandatory reporting of child sexual abuse, which represents an important step forward for protection of children’s human rights. However, we are concerned that the scope of the duty and particularly the consequences of breach may not do enough to provide effective protection against child sexual abuse. While concerns about making a failure to comply with the duty to report a criminal offence are understandable, the alternative proposed in the Bill risks a failure to comply having little or no consequence. This could undermine the efficacy of the duty to report.

---

137 [CPB0022](#)

138 Safeguarding Vulnerable Groups Act, Schedule 3 paragraph 3(3)

**163. RECOMMENDATION**

The Government must keep under review the efficacy of the mandatory reporting duty once it is in place, with a view to expanding its scope if necessary. The Government should also reconsider the consequence of failing to comply with the duty to report child sexual abuse, so that it operates as an effective deterrent. In particular, the Government should ensure the consequence of breach does not depend significantly on referrals being made by employers, managers or personnel providers who may also be under pressure to protect reputation.

## Universal jurisdiction

**164.** In our recent report on Accountability for Daesh Crimes, one of the conclusions we reached was that:

[t]he UK legal framework applicable to international crimes is inconsistent. Whilst it is possible to prosecute individuals for torture and grave breaches of the Geneva Conventions committed abroad, it is not possible to prosecute individuals for genocide, crimes against humanity, or other war crimes committed abroad, unless the individuals are UK nationals, UK residents, or subject to service personnel laws. This creates a key barrier to the exercise of the principle of universal jurisdiction in the UK.<sup>139</sup>

**165.** To address this barrier we recommended that the Government should amend the International Criminal Court Act 2001 (the ICC Act) to remove the requirements of UK nationality and residency - and we proposed amendments to the Crime and Policing Bill to achieve this.<sup>140</sup>

**166.** In the course of our legislative scrutiny inquiry into the Crime and Policing Bill we received further support from witnesses for amendments to the Bill to achieve this change to the ICC Act. Redress told us that “[t]he Crime and Policing Bill presents a critical opportunity to reform the UK’s approach to prosecuting international crimes by strengthening its [universal jurisdiction] laws.”<sup>141</sup> Amnesty International UK agreed that “the Crime and Policing Bill provides a timely opportunity for a necessary strengthening of UK laws on universal jurisdiction, to better prevent the UK being a “safe haven” for perpetrators of crimes under international law.”<sup>142</sup>

---

139 Joint Committee on Human Rights, Second Report of Session 2024–25, [Legislative Scrutiny: Public Order Bill](#), HC 612, HL Paper 121, p17

140 See Annex to the report

141 [CPB0010](#)

142 [CPB0019](#)

**167.**

**RECOMMENDATION**

We repeat our call for barriers to the exercise of universal jurisdiction to be removed, and our proposed amendment to the Bill to achieve this appears in the Annex to this report.

---

# Conclusions and recommendations

## Anti-social behaviour

1. We recognise that anti-social behaviour can blight communities, with the most serious and persistent cases undermining well-being, causing intimidation and distress and preventing the full expression and enjoyment of individual rights. We also recognise that those accused of anti-social behaviour, and those found to have engaged in it, also have human rights that must be respected even while action is properly being taken against them. We agree with witnesses that it is vital the law provides protection for victims whilst also ensuring that (a) those accused of anti-social behaviour are able to defend themselves against these accusations where they believe them to be inaccurate and (b) those found to have engaged in anti-social behaviour are subjected to restrictions, requirements and punishments that are justified and proportionate. (Conclusion, Paragraph 13)
2. The broad definition of anti-social behaviour encompasses a wide range of unacceptable behaviour. While it may be well-established and understood by some authorities, its breadth and subjectivity allows for inconsistency in its application and risks sweeping up less serious matters along with behaviour that demands a legal response. This can disproportionately affect vulnerable groups and result in measures being taken that interfere with human rights to an unjustified extent. It is therefore particularly important that measures taken to combat anti-social behaviour contain effective safeguards against their disproportionate use. (Conclusion, Paragraph 26)
3. It is important that measures designed to tackle ASB work to protect victims and do not unjustifiably affect the vulnerable. Respect orders would reintroduce criminal offence as a punishment for breach. It is not, however, clear why they would work more effectively than existing measures or the ASBOs that preceded them but were abandoned a decade ago.(Conclusion, Paragraph 47)
4. Particularly given the emphasis witnesses placed on anti-social behaviour largely being carried out by adults, we welcome the decision to exclude children from the scope of respect orders. However, the youth injunction

targeted at under 18s would simply replicate the existing regime. It is unclear whether this would effectively tackle anti-social behaviour and do enough to respect the rights of children. (Conclusion, Paragraph 48)

5. We also welcome a focus on rehabilitative requirements within respect orders, but note that such requirements are already available under existing measures. From evidence we have received it does not appear they have been used effectively to address anti-social behaviour. Respect orders must be backed up with the resources necessary to make rehabilitative requirements work. (Conclusion, Paragraph 49)
6. Measures designed to tackle anti-social behaviour affect the rights of victims and those accused of anti-social behaviour. To ensure these rights are properly protected it is important that the impact and efficacy of these measures are properly understood. We agree that the Government should have carried out a review of the wide range of existing measures available to tackle ASB before introducing the respect order on top. (Conclusion, Paragraph 55)
7. We welcome the fact that the Bill provides for more data on ASB and responses to it be shared with the Secretary of State. The Government should go further, however, and now comply with the Victims' Commissioner's request to carry out a review of all existing civil legal tools designed to protect the public from anti-social behaviour to see if they are fit for purpose. If they are introduced, the use of respect orders and their compliance with human rights standards must be kept under careful review – with the Home Office reporting to Parliament on these matters within 18 months of the Bill coming into force. (Recommendation, Paragraph 56)
8. The respect order resurrects the direct criminal consequences of the ASBO while retaining the lesser procedural protections of the anti-social behaviour injunction. While it is important that anti-social behaviour is addressed, this should not come at the cost of procedural fairness. An unfair process inevitably risks respect orders being imposed without justification. (Conclusion, Paragraph 71)
9. Taking into account the proceedings as a whole, we have concerns about their compliance with principles of procedural fairness and Article 6 ECHR (the right to a fair trial). This is particularly the case given that respect orders would be available where anti-social behaviour, or even just the threat of it, has been proved to the civil standard of proof (i.e. on the balance of probabilities) and the court has concluded that an order is just and convenient (not 'necessary' or 'proportionate'). Also, given that they are civil orders, the civil rules on hearsay evidence apply (potentially making it harder for the respect order recipient to dispute evidence against them and overcome the lesser standard of proof). Finally, the consequence

of receiving a respect order is particularly significant, given that breach constitutes a criminal offence punishable by imprisonment. (Conclusion, Paragraph 72)

10. As part of the review we have proposed into the use of respect orders and their compliance with human rights standards, the Government should keep both the test for imposing a respect order and the standard of proof under careful review. (Conclusion, Paragraph 73)
11. Broad prohibitions and requirements can be imposed under Community Protection Notices, which bind individuals, and under Public Spaces Protection Orders, which bind the general public. Their imposition receives limited scrutiny unless they are legally challenged. If their breach is punished by way of fixed penalty notice, handed out by authorised persons employed by local authorities, there is a further lack of oversight. (Conclusion, Paragraph 85)
12. While deterring individuals from engaging in anti-social behaviour is obviously valuable, it is not clear that an increase in the fines that can be imposed by way of FPN will have such an effect. Furthermore, the lack of oversight leaves open the risk that fines up to £500 may be imposed on the spot without justification, and potentially in breach of the proportionality required under the Human Rights Act. (Conclusion, Paragraph 86)
13. The Government should conduct an urgent review of the use of community protection notices and public spaces protection orders, and particularly the use of fixed penalty notices for breach, to determine their efficacy and whether they are being applied and enforced proportionately and with due regard to the circumstances, including the socio-economic circumstances, of those affected. (Recommendation, Paragraph 87)

## Public order

14. This is the third piece of primary legislation changing the law on public order on which the JCHR has reported in less than five years. Given the importance of free expression and free assembly to a healthy democracy, the Joint Committee on Human Rights is concerned by the volume of recent change to the law on protest. (Conclusion, Paragraph 98)
15. We recommend that the Government should conduct post-legislative review of the impact of this Bill, the Public Order Act 2023 and the public order elements of the Police, Crime, Sentencing and Courts Act 2022 on the exercise of the right to protest before embarking on any further legislative change in this area. (Recommendation, Paragraph 99)

16. We agree that the police should be able to take action against individuals using masks to intimidate others and to evade arrest. However, there may be legitimate reasons for actions that conceal identity at a protest. It is important that the law does not disproportionately interfere with human rights, including the right to engage in peaceful protest. (Conclusion, Paragraph 109)
17. Under the Bill, the power to designate an area within which it would be a criminal offence to conceal one's identity depends on the police having a reasonable belief that a public procession or assembly "which constitutes a protest" is taking or may take place. There is no definition of "protest" in the Bill, which introduces an element of uncertainty, when the ECHR requires any interference with the right to protest to be accessible and foreseeable. (Conclusion, Paragraph 116)
18. To improve accessibility and foreseeability, the Bill should be amended to include a definition of "protest" or alternatively the need for the procession or assembly to constitute a protest should be removed. Removing this requirement would, however, widen the reach of the offence and should be accompanied by further changes to the Bill proposed below. (Recommendation, Paragraph 117)
19. We recognise that the wearing of masks at protests can be intimidating, and that concealing identity can be used as a method of evading criminal responsibility. Nevertheless, the law must provide adequate protection against the unjustified criminalisation of peaceful protesters. (Conclusion, Paragraph 132)
20. To achieve this, steps should be taken to provide additional safeguards for Convention rights:
  - a. The Bill should be amended so that the police can only designate an area within which it would be a criminal offence to conceal one's identity if they reasonably believe that offences involving violence or public disorder are likely to occur. Specific guidance must also be given to the police on the need to take into consideration before arrest that individuals may wear items that have the effect of concealing identity for legitimate reasons, including in particular religious and health reasons.
  - b. A defence of reasonable excuse should be added to the Bill.

Draft amendments to the Bill to include these additional safeguards are set out in the Annex to this report. (Recommendation, Paragraph 133)

21. We recognise that protests have the potential to intimidate and interfere with the right to manifest one's religion through worship. However, the right to protest peacefully must also be respected. We agree with evidence we

received that it is important that the right balance is struck between these rights, which means that not all claims of intimidation can trump protest arrangements. (Conclusion, Paragraph 146)

22. To help ensure the right balance is struck between the right to protest and the rights of people to worship without intimidation, the Bill should be amended so that the police can impose conditions when they reasonably believe that an assembly or procession “would intimidate persons of reasonable firmness” rather than “may intimidate persons of reasonable firmness”. Draft amendments to achieve this are included in the Annex to this report. (Recommendation, Paragraph 147)

## Other issues

23. We welcome the introduction of mandatory reporting of child sexual abuse, which represents an important step forward for protection of children’s human rights. However, we are concerned that the scope of the duty and particularly the consequences of breach may not do enough to provide effective protection against child sexual abuse. While concerns about making a failure to comply with the duty to report a criminal offence are understandable, the alternative proposed in the Bill risks a failure to comply having little or no consequence. This could undermine the efficacy of the duty to report. (Conclusion, Paragraph 162)
24. The Government must keep under review the efficacy of the mandatory reporting duty once it is in place, with a view to expanding its scope if necessary. The Government should also reconsider the consequence of failing to comply with the duty to report child sexual abuse, so that it operates as an effective deterrent. In particular, the Government should ensure the consequence of breach does not depend significantly on referrals being made by employers, managers or personnel providers who may also be under pressure to protect reputation. (Recommendation, Paragraph 163)
25. We repeat our call for barriers to the exercise of universal jurisdiction to be removed, and our proposed amendment to the Bill to achieve this appears in the Annex to this report. (Recommendation, Paragraph 167)

---

# Annex: Suggested Amendments to the Bill

This Annex contains suggested amendments to the Bill in light of the conclusions and recommendations contained in this Report. Amendments are drafted on the basis of the Bill as brought from the House of Commons (HL Bill 111).

## Concealing identity at protests

### Amendment 1

Clause 118, page 147, leave out lines 22 to 26 and insert:

“(2) It is a defence for a person charged with an offence under this section to show that they had a reasonable excuse for wearing or otherwise using the item at the material time.”

*Explanatory statement: This amendment would provide a defence of reasonable excuse to the offence of concealing identity at protests.*

### Amendment 2

Clause 119, page 148, line 8 after “offences” insert “involving violence or public disorder”

*Explanatory statement: This amendment would specify the kind of offences anticipation of which forms part of the test for designating a locality within which concealing identity would become an offence.*

## Places of worship

### Amendment 3

Clause 124, page 151, line 19, leave out “may” and insert “would”

## Amendment 4

Clause 124, page 151, line 30, leave out “may” and insert “would”

## Amendment 5

Clause 124, page 152, line 3, leave out “may” and insert “would”

*Explanatory statement: These amendments would alter the test for when a senior police officer would be able to impose conditions on assemblies, processions and one-person protests in the vicinity of places of worship, so that it requires reasonable belief that intimidation would result.*

# Universal jurisdiction

## Amendment 6

To move the following clause:

“Universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes, and ancillary conduct (England and Wales)

(1) The International Criminal Court Act 2001 is amended as follows.

(2) In section 51(1) –

- a. After “person”, insert “, whatever his or her nationality,”
- b. After “war crime”, insert “in the United Kingdom or elsewhere.”

(3) Omit section 51(2).

(4) In section 52(1) –

- a. After “person”, insert “, whatever his or her nationality,”
- b. After “conduct”, insert “in the United Kingdom or elsewhere.”

(5) Omit section 52(4).”

*Explanatory statement: This new clause would amend the ICC Act 2001 to provide for the exercise of universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes, and ancillary conduct. This would allow for the authorities in England and Wales to prosecute persons suspected of these crimes without any requirement for a connection to the UK, consistent with the jurisdiction over the crimes of torture and grave breaches of the Geneva Conventions.*

## Amendment 7

To move the following clause:

“Universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes, and ancillary conduct (Northern Ireland)

(1) The International Criminal Court Act 2001 is amended as follows.

(2) In section 58(1) –

- a. After “person”, insert “, whatever his or her nationality,”
- b. After “war crime”, insert “in the United Kingdom or elsewhere.”

(3) Omit section 58(2).

(4) In section 59(1) –

- a. After “person”, insert “, whatever his or her nationality,”
- b. After “conduct”, insert “in the United Kingdom or elsewhere.”

(5) Omit section 59(4).

*Explanatory statement: This new clause would amend the ICC Act 2001 to provide for the exercise of universal jurisdiction over the crimes of genocide, crimes against humanity and war crimes, and ancillary conduct. This would allow for the authorities in England and Wales to prosecute persons suspected of these crimes without any requirement for a connection to the UK, consistent with the jurisdiction over the crimes of torture and grave breaches of the Geneva Conventions.*

---

# Formal minutes

**Wednesday 9 July 2025**

## Members present

Lord Alton of Liverpool (Chair)

Lord Dholakia

Tom Gordon

Afzal Khan

Baroness Kennedy of the Shaws

Baroness Lawrence of Clarendon

Alex Sobel

Peter Swallow

Sir Desmond Swayne

## Legislative Scrutiny: Crime and Policing Bill

Draft Report (Legislative Scrutiny: Crime and Policing Bill), proposed by the Chair, brought up and read.

*Ordered*, That the draft *Report* be read a second time, paragraph by paragraph.

Paragraphs 1 to 167 read and agreed to.

Annex and Summary agreed to.

*Resolved*, That the Report be the Fifth Report of the Committee to the House of Lords and the House of Commons.

*Ordered*, That the Chair make the Report to the House of Lords and that Sir Desmond Swayne make the Report to the House of Commons.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

## Adjournment

Adjourned until 2.00pm on Wednesday 16 July.

---

# Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

## Wednesday 11 June 2025

**Dr Alex Black**, Lecturer, Sheffield Hallam University; **Tyrone Steele**, Deputy Legal Director, JUSTICE [Q1-22](#)

**Mark Hobrough**, Chief Constable, Gwent Police and NPCC; **Rebecca Bryant OBE**, Chief Executive, RESOLVE [Q1-22](#)

---

# Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

CPB numbers are generated by the evidence processing system and so may not be complete.

1	Amnesty International UK	<a href="#">CPB0019</a>
2	Amnesty UK	<a href="#">CPB0021</a>
3	Bill, Crime and Policing (Associate Professor, University of Birmingham)	<a href="#">CPB0020</a>
4	Blockley, Professor Tony (Head of School criminology, Investigation and Policing, Leeds Trinity University)	<a href="#">CPB0004</a>
5	Cross Party Group in the Scottish Parliament on Commercial Sexual Exploitation	<a href="#">CPB0003</a>
6	Fraser, Ms Andrea (Lawyer, Justice)	<a href="#">CPB0023</a>
7	Graham, Dr Laura (Senior Lecturer, Northumbria Law School)	<a href="#">CPB0017</a>
8	Greenwood, Mr David (Director and Solicitor, Switalskis Solicitors)	<a href="#">CPB0013</a>
9	Justice For Charlene Downes Campaign Group	<a href="#">CPB0014</a>
10	Mandate Now	<a href="#">CPB0022</a>
11	RESOLVE	<a href="#">CPB0025</a>
12	Redress	<a href="#">CPB0010</a>
13	Southall Black Sisters (SBS)	<a href="#">CPB0016</a>
14	Standing Together Against Domestic Abuse	<a href="#">CPB0015</a>
15	Transition to Adulthood Alliance	<a href="#">CPB0018</a>
16	Youth Justice Board	<a href="#">CPB0024</a>

---

# List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee’s website.

## Session 2024–25

Number	Title	Reference
4th	Legislative Scrutiny: Border Security, Asylum and Immigration Bill	HC 789
3rd	Legislative Scrutiny: Mental Health Bill	HC 601
2nd	Accountability for Daesh crimes	HC 612
1st	Proposal for a Draft Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 (Remedial) Order 2024	HC 569
1st Special	Human rights and the proposal for a “Hillsborough Law”: Government Response to the Committees Third Report of Session 2023 - 2024	HC 739