

# Police, Crime, Sentencing and Courts Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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**Clause 1**

LORD ROSSER

Page 2, line 2, after “workforce,” insert “including mental health and the impact of trauma,”

***Member’s explanatory statement***

*This would explicitly require that mental health and the impact of trauma on the police workforce must be reported on as part of the report on the covenant.*

Page 2, line 34, at end insert –

“(8A) The Secretary of State may not lay the police covenant report before Parliament unless it has been reviewed by an oversight board.

(8B) The oversight board referred to in subsection (8A) must consist of –

- (a) an independent chair to be appointed by the Secretary of State;
- (b) representatives of the organisations listed under subsection (8C), as appointed by those organisations; and
- (c) any other person as the Secretary of State considers appropriate.

(8C) The organisations referred to in subsection (8B) are –

- (a) the Police Federation,
- (b) the Police Superintendents’ Association,
- (c) the Chief Police Officers Staff Association,
- (d) UNISON,
- (e) the National Police Chiefs Council,
- (f) the Association of Police and Crime Commissioners,
- (g) the Home Office, and
- (h) the College of Policing.”

***Member’s explanatory statement***

*This would require the report on the covenant to be considered by an oversight board made up of policing bodies and chaired by an independent chair.*

**After Clause 1**

LORD ROSSER

Insert the following new Clause –

**“Duty on health service bodies to have due regard to police covenant principles**

- (1) In exercising in relation to England a relevant healthcare function, a person or body specified in subsection (2) must have due regard to –
  - (a) the obligations of and sacrifices made by members of the police workforce,
  - (b) the principle that it is desirable to remove any disadvantage for members or former members of the police workforce arising from their membership or former membership, and
  - (c) the principle that special provision for members or former members of the police workforce may be justified by the effects on such people of membership, or former membership, of that workforce.
- (2) The specified persons and bodies are –
  - (a) the National Health Service Commissioning Board;
  - (b) a clinical commissioning group;
  - (c) a National Health Service trust in England;
  - (d) an NHS foundation trust.”

***Member’s explanatory statement***

*This would require local health bodies to have due regard to principles of the covenant, as is the case in the Armed Forces covenant.*

**Clause 7**

LORD ROSSER

Page 8, line 16, after “violence”, insert “and safeguard children involved in serious violence”

***Member’s explanatory statement***

*This amendment would require specified authorities subject to the “serious violence duty” to safeguard children involved in serious violence.*

Page 8, line 19, after “violence”, insert “and safeguard children involved in serious violence”

***Member’s explanatory statement***

*This amendment would require specified authorities subject to the “serious violence duty” to safeguard children involved in serious violence.*

Page 8, line 25, at end insert –

- “(d) safeguard children involved in serious violence in the area, and
- (e) identify and safeguard children who are involved in serious violence in the area as a result of being a victim of modern slavery and trafficking offences under the Modern Slavery Act 2015.”

***Member’s explanatory statement***

*This amendment would require specified authorities to safeguard children involved in serious violence as part of the serious violence duty, including identifying and safeguarding children who are victims of modern slavery and trafficking.*

Page 8, line 25, at end insert –

“(d) prepare and implement an early help strategy to prevent violence, support child victims of violence and prevent hidden harm.”

***Member’s explanatory statement***

*This amendment would add a duty on specified authorities to prepare and implement an early help strategy.*

Page 8, line 31, at end insert –

“(d) any children’s social care authority for the area which is not a specified authority for the area.”

***Member’s explanatory statement***

*This amendment would ensure that any children’s social care authority which was not already involved in the strategy would be consulted in the preparation of the strategy.*

**Clause 8**

LORD ROSSER

Page 9, line 28, after “violence”, insert “and safeguard children involved in serious violence”

***Member’s explanatory statement***

*This amendment would require specified authorities subject to the “serious violence duty” to safeguard children involved in serious violence.*

Page 9, line 31, after “violence”, insert “and safeguard children involved in serious violence”

***Member’s explanatory statement***

*This amendment would require specified authorities subject to the “serious violence duty” to safeguard children involved in serious violence.*

**Clause 9**

LORD ROSSER

Page 11, line 10, after “violence”, insert “and safeguard children involved in serious violence”

***Member’s explanatory statement***

*This amendment would require specified authorities subject to the “serious violence duty” to safeguard children involved in serious violence.*

Page 11, line 12, after “violence”, insert “and safeguard children involved in serious violence”

**Member's explanatory statement**

*This amendment would require specified authorities subject to the "serious violence duty" to safeguard children involved in serious violence.*

Page 11, line 26, leave out subsections (4) and (5)

**Member's explanatory statement**

*This would remove provisions on the disclosure of data. This is to probe the effect of the powers this section would grant the Secretary of State to allow the disclosure of information.*

**After Clause 9**

LORD ROSSER

Insert the following new Clause—

**“Duties to collaborate and plan to prevent and reduce child criminal exploitation and safeguard affected children**

- (1) The specified authorities for a local government area must collaborate with each other to prevent and reduce child criminal exploitation in the area and safeguard affected children.
- (2) The duty imposed on the specified authorities for a local government area by subsection (1) includes a duty to plan together to exercise their functions so as to prevent and reduce child criminal exploitation in the area and safeguard affected children.
- (3) In particular, the specified authorities for a local government area must—
  - (a) identify the kinds of child criminal exploitation that occur in the area,
  - (b) identify the causes of child criminal exploitation in the area, so far as it is possible to do so, and
  - (c) prepare and implement a strategy for exercising their functions to prevent and reduce child criminal exploitation and safeguard affected children in the area.
- (4) In preparing a strategy under this section for a local government area, the specified authorities for the area must ensure that the following are consulted—
  - (a) each educational authority for the area;
  - (b) each prison authority for the area;
  - (c) each youth custody authority for the area.
- (5) A strategy under this section for a local government area may specify an action to be carried out by—
  - (a) an educational authority for the area,
  - (b) a prison authority for the area, or
  - (c) a youth custody authority for the area.
- (6) Once a strategy has been prepared under this section for a local government area, the specified authorities for the area must—
  - (a) keep the strategy under review, and
  - (b) every two years, prepare and implement a revised strategy.

**After Clause 9 - continued**

- (7) A strategy prepared under this section may be combined with a strategy prepared in accordance with section 7 (duties to collaborate and plan to prevent and reduce serious violence) or section 8 (powers to collaborate and plan to prevent and reduce serious violence).
- (8) For the purposes of this section, “child criminal exploitation” means activity which would constitute an offence by virtue of section (Child criminal exploitation).”

**Member’s explanatory statement**

*This would require specified authorities to collaborate and plan to prevent and reduce child criminal exploitation, and safeguard affected children.*

Insert the following new Clause –

**“Child criminal exploitation**

In section 3 of the Modern Slavery Act 2015 (meaning of exploitation), at the end insert –

*“Child criminal exploitation*

- (7) Another person manipulates, deceives, coerces or controls the person to undertake activity which constitutes a criminal offence and the person is under the age of 18.””

**Member’s explanatory statement**

*This new Clause introduces a statutory definition of child criminal exploitation.*

**Clause 12**

BARONESS BERTIN

LORD ROSSER

LORD POLAK

LORD RUSSELL OF LIVERPOOL

Page 13, line 4, at end insert “, and domestic abuse, domestic homicides and sexual offences”

**Member’s explanatory statement**

*This amendment would clarify on the face of the legislation that the definition of serious violence, for the purpose of the proposed Serious Violence Prevention Duty, includes domestic abuse, domestic homicide and sexual offences.*

**Clause 15**

LORD ROSSER

Page 15, line 29, leave out subsections (3) and (4)

**Member’s explanatory statement**

*This would remove provisions on the disclosure of data. This is to probe the effect of the powers this section would grant to allow the disclosure of information.*

**Clause 16**

LORD ROSSER

Page 16, line 21, leave out subsections (4) to (6)

***Member's explanatory statement***

*This would remove provisions on the disclosure of data. This is to probe the effect of the powers this section would grant to allow the disclosure of information.*

**Clause 36**

LORD ROSSER

Page 29, line 9, at end insert –

- “(c) the user who has given agreement under paragraph (b) was offered free independent legal advice on issues relating to their human rights before that agreement was given.”

***Member's explanatory statement***

*This would require free independent legal advice to be offered to a person before they agree to extraction of data from a device.*

Leave out Clause 36 and insert the following new Clause –

**“Extraction of information from electronic devices**

- (1) Subject to Conditions A to D below, insofar as applicable, an authorised person may extract information stored on an electronic device from that device if –
  - (a) a user of the device has voluntarily provided the device to an authorised person, and
  - (b) that user has agreed to the extraction of specified information from the device by an authorised person.
- (2) Condition A for the exercise of the power in subsection (1) is that it may be exercised only for the purposes of –
  - (a) preventing, detecting, investigating or prosecuting an offence,
  - (b) helping to locate a missing person, or
  - (c) protecting a child or an at-risk adult from neglect or physical or mental harm.
- (3) For the purposes of subsection (2) an adult is an at-risk adult if the authorised person reasonably believes that the adult –
  - (a) is experiencing, or at risk of, neglect or physical or mental harm, and
  - (b) is unable to protect themselves against the neglect or harm or the risk of it.
- (4) Condition B for the exercise of the power in subsection (1) is that the power may only be exercised if –
  - (a) the authorised person reasonably believes that information stored on the electronic device is relevant to a purpose within subsection (2) for which the authorised person may exercise the power, and

**Clause 36 - continued**

- (b) the authorised person is satisfied that exercise of the power is strictly necessary and proportionate to achieve that purpose.
- (5) For the purposes of subsection (4)(a), information is relevant for the purposes within subsection (2)(a) only in circumstances where the information is strictly relevant to a reasonable line of enquiry.
- (6) Condition C as set out in subsection (7) applies if the authorised person thinks that, in exercising the power, there is a risk of obtaining information other than information necessary for a purpose within subsection (2) for which the authorised person may exercise the power.
- (7) Condition C is that the authorised person must, to be satisfied that the exercise of the power in the circumstances set out in subsection (6) is strictly necessary and proportionate, be satisfied that there are no other less intrusive means available of obtaining the information sought by the authorised person which avoid that risk.
- (8) Condition D is that an authorised person must have regard to the code of practice for the time being in force under section (*Code of practice*).
- (9) This section does not affect any power relating to the extraction or production of information, or any power to seize any item or obtain any information, conferred by or under an enactment.
- (10) In this section and section (*Application of section (Extraction of information from electronic devices) to children and adults without capacity*) –
- “adult” means a person aged 18 or over;
  - “authorised person” means a person specified in subsection (1) of section (*Application of section (Extraction of information from electronic devices) to children and adults without capacity*) subject to subsection (2) of that section;
  - “child” means a person aged under 18;
  - “agreement” means that the user has confirmed explicitly and unambiguously in writing that they agree –
    - (a) to provide their device, and
    - (b) to the extraction of specified data from that device.
- Such an explicit written confirmation can only constitute agreement for these purposes if, in accordance with the Code of Practice issued pursuant to section (*Code of practice*), the user –
- (i) has been provided with appropriate information and guidance about why the extraction is considered strictly necessary (including, where relevant, the identification of the reasonable line of enquiring relied upon);
  - (ii) has been provided with appropriate information as to –
    - (a) how the data will or will not be used in accordance with the authorised person’s legal obligations, and
    - (b) any potential consequences arising from their decision;
  - (iii) has confirmed their agreement in the absence of any inappropriate pressure or coercion;

**Clause 36 - continued**

“electronic device” means any device on which information is capable of being stored electronically and includes any component of such a device;

“enactment” includes –

- (a) an Act of the Scottish Parliament,
- (b) an Act or Measure of Senedd Cymru, and
- (c) Northern Ireland legislation;

“information” includes moving or still images and sounds;

“offence” means an offence under the law of any part of the United Kingdom;

“user”, in relation to an electronic device, means a person who ordinarily uses the device.

- (11) References in this section and sections (*Application of section (Extraction of information from electronic devices) to children and adults without capacity*) to the extraction of information include its reproduction in any form.
- (12) This section is subject to sections (*Application of section (Extraction of information from electronic devices) to children and adults without capacity*) and (*Application of section (Extraction of information from electronic devices) where user has died etc.*)”

**Member’s explanatory statement**

*This would strengthen the requirements for data extraction powers to be used, including raising the threshold to strict necessity, requiring data extracted to be “specified data” as part of a reasonable line of enquiry, and adding a definition of agreement as being informed agreement. It also defines an adult as a person over the age of 18, not 16 as the Bill currently provides.*

**Clause 37**

LORD ROSSER

Leave out Clause 37 and insert the following new Clause –

**“Application of section (*Extraction of information from electronic devices*) to children and adults without capacity**

- (1) A child is not to be treated for the purposes of subsection (1) of section (*Extraction of information from electronic devices*) as being capable of –
  - (a) voluntarily providing an electronic device to an authorised person for those purposes, or
  - (b) agreeing for those purposes to the extraction of information from the device by an authorised person.
- (2) If a child is a user of an electronic device, a person who is not a user of the device but is listed in subsection (3) may –
  - (a) voluntarily provide the device to an authorised person for the purposes of subsection (1) of section (*Extraction of information from electronic devices*), and
  - (b) agreement for those purposes to the extraction of information from the device by an authorised person.
- (3) The persons mentioned in subsection (2) are –

**Clause 37 - continued**

- (a) the child's parent or guardian or, if the child is in the care of a relevant authority or voluntary organisation, a person representing that authority or organisation, or
  - (b) a registered social worker.
- (4) The agreement of persons listed in subsection (3) further to subsection (2)(b) should only be accepted where, if it is appropriate, the child has been consulted on whether such agreement should be provided and the authorised person is satisfied those views have been taken into account.
- (5) An adult without capacity is not to be treated for the purposes of section (*Extraction of information from electronic devices*) as being capable of—
  - (a) voluntarily providing an electronic device to an authorised person for those purposes, or
  - (b) agreeing for those purposes to the extraction of information from the device by an authorised person.
- (6) If a user of an electronic device is an adult without capacity, a person who is not a user of the device but is listed in subsection (7) may—
  - (a) voluntarily provide the device to an authorised person for the purposes of subsection (1) of section (*Extraction of information from electronic devices*), and
  - (b) agreement for those purposes to the extraction of information from the device by an authorised person.
- (7) The persons mentioned in subsection (6) are—
  - (a) a parent or guardian of the adult without capacity,
  - (b) a registered social worker,
  - (c) a person who has a power of attorney in relation to the adult without capacity.
- (8) The agreement of persons listed in subsection (7) further to subsection (6)(b) should only be accepted where, if it is appropriate, the adult without capacity has been consulted on whether such agreement should be provided and the authorised person is satisfied those views have been taken into account.
- (9) Nothing in this section prevents any other user of an electronic device who is not a child or an adult without capacity from—
  - (a) voluntarily providing the device to an authorised person for the purposes of subsection (1) of section (*Extraction of information from electronic devices*), or
  - (b) agreeing for those purposes to the extraction of information from the device by an authorised person.
- (10) In this section and section 38—
  - “adult without capacity” means an adult who, by reason of any impairment of their physical or mental condition, is incapable of making decisions for the purposes of subsection (1) of section (*Extraction of information from electronic devices*);
  - “local authority”—

**Clause 37 - continued**

- (a) in relation to England, means a county council, a district council for an area for which there is no county council, a London borough council or the Common Council of the City of London,
- (b) in relation to Wales, means a county council or a county borough council, and
- (c) in relation to Scotland, means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

“registered social worker” means a person registered as a social worker in a register maintained by –

- (a) Social Work England,
- (b) the Care Council for Wales,
- (c) the Scottish Social Services Council, or
- (d) the Northern Ireland Social Care Council;

“relevant authority” –

- (a) in relation to England and Wales and Scotland, means a local authority;
- (b) in relation to Northern Ireland, means an authority within the meaning of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2));

“voluntary organisation” –

- (a) in relation to England and Wales and Scotland, has the same meaning as in the Children Act 1989;
- (b) in relation to Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995.

- (11) Subsections (10) and (11) of section (*Extraction of information from electronic devices*) also contain definitions for the purposes of this section.”

**Member’s explanatory statement**

*This supports new Clause “Extraction of information from electronic devices”. It would also strengthen the requirement to consult a child or adult without capacity, and limits those who can give agreement on their behalf.*

**Clause 38**

LORD ROSSER

Page 33, line 23, leave out subsection (5) and insert –

- “(5) The exercise of the power in subsection (1) of section (*Extraction of information from electronic devices*) by virtue of this section is subject to subsections (2) to (8) of that section.
- (6) Subsections (10) and (11) of section (*Extraction of information from electronic devices*) and subsection (9) of section (*Application of section (Extraction of information from electronic devices) to children and adults without capacity*) contain definitions for the purposes of this section.”

**Member’s explanatory statement**

*This is a technical amendment to support new Clause “Extraction of information from electronic devices”.*

## Clause 40

LORD ROSSER

Leave out Clause 40 and insert the following new Clause –

### “Code of practice

- (1) The Secretary of State must prepare a code of practice containing guidance about the exercise of the power in subsection (1) of section (*Extraction of information from electronic devices*).
- (2) In preparing the code, the Secretary of State must consult –
  - (a) the Information Commissioner,
  - (b) the Scottish Ministers,
  - (c) the Welsh Government,
  - (d) the Department of Justice in Northern Ireland,
  - (e) the Victims Commissioner,
  - (f) the Domestic Abuse Commissioner,
  - (g) any regional Victims Champion including the London Victims Commissioner,
  - (h) persons who appear to the Secretary of State to represent the interests of victims, witnesses and other individuals likely to be affected by the use of the power granted in subsection (1) of section (*Extraction of information from electronic devices*), and
  - (i) such other persons as the Secretary of State considers appropriate.
- (3) After preparing the code, the Secretary of State must lay it before Parliament and publish it.
- (4) The code is to be brought into force by regulations made by statutory instrument.
- (5) The code must address, amongst other matters –
  - (a) the procedure by which an authorised person must obtain and record confirmation that a device has been provided voluntarily;
  - (b) the procedure by which an authorised person must obtain and record confirmation that agreement has been provided for the extraction of specified information, including the information which must be provided to the user about –
    - (i) how long the device will be retained;
    - (ii) what specific information is to be extracted from the device and why, including the identification of the reasonable line of enquiry to be pursued and the scope of information which will be extracted, reviewed or retained;
    - (iii) how the extracted information will be kept secure;
    - (iv) how the extracted information will or may be used in a criminal process;
    - (v) how they can be kept informed about who their information is to be shared with and the use of their information in the criminal process;

**Clause 40 - continued**

- (vi) their right to refuse to agree to provide their device and/or to the proposed extraction in whole or in part and the potential consequences of that refusal; and
  - (vii) the circumstances in which a further extraction may be required, and what will happen to the information after the case has been considered;
- (c) the different types of extraction processes available, and the parameters which should be considered in defining the scope of any proposed extraction from a user's device;
  - (d) the circumstances in which the extraction of information should and should not be considered strictly necessary and proportionate;
  - (e) the considerations to be taken into account in determining whether there are less intrusive alternatives available to extraction for the purposes of subsection (7) of section (*Extraction of information from electronic devices*);
  - (f) the process by which the authorised person should identify and delete data which is not responsive to a reasonable line of inquiry or has been assessed as not relevant to the purposes for which the extraction was conducted; and
  - (g) the records that must be maintained documenting for each extraction or proposed extraction, including—
    - (i) the specific information to be extracted;
    - (ii) the reasonable lines of enquiry pursued;
    - (iii) the basis upon which the extraction is considered strictly necessary, including any alternatives considered and why they were not pursued;
    - (iv) confirmation that appropriate information was provided to the user and, if applicable, agreement obtained;
    - (v) the reasons why the user was not willing to agree to a proposed extraction.
- (6) A statutory instrument containing regulations under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.
  - (7) After the code has come into force the Secretary of State may from time to time revise it.
  - (8) References in subsections (2) to (7) to the code include a revised code.
  - (9) An authorised person must in the exercise of the power granted under section (*Extraction of information from electronic devices*) have regard to the code of practice in deciding whether to exercise, or in the exercise of that power.
  - (10) A failure on the part of any person to comply with any provision of a code of practice for the time being in force under this section shall not of itself render that person liable to any criminal or civil proceedings.
  - (11) A code of practice in force at any time under this section shall be admissible in evidence in any criminal or civil proceedings.

**Clause 40 - continued**

- (12) In all criminal and civil proceedings any code in force under this section shall be admissible in evidence; and if any provision of the code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.”

***Member’s explanatory statement***

*This provides more detail on what must be included in the code of practice.*

**Clause 55**

LORD ROSSER  
LORD DUBS

Page 47, line 1, leave out subsections (2) and (3)

***Member’s explanatory statement***

*This is based on a JCHR recommendation. This amendment would remove the proposed new trigger for imposing conditions on public processions based on noise in England and Wales.*

LORD PADDICK  
LORD ROSSER

*The above-named Lords give notice of their intention to oppose the Question that Clause 55 stand part of the Bill.*

**Clause 56**

LORD ROSSER  
LORD DUBS

Page 48, line 12, leave out subsection (2)

***Member’s explanatory statement***

*This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.*

Page 48, line 31, leave out “impact”

***Member’s explanatory statement***

*This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.*

Page 48, line 40, leave out subsection (5)

***Member’s explanatory statement***

*This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.*

LORD ROSSER  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 56 stand part of the Bill.*

**Clause 57**

LORD ROSSER  
LORD DUBS

Page 50, leave out line 5 and insert –

- “(i) knows that the condition has been imposed or has deliberately or recklessly avoided gaining knowledge that the condition has been imposed; and
- (ii) knows or ought to know that their action or inaction amounts to a failure to comply with the condition;”

***Member’s explanatory statement***

*This is based on a JCHR recommendation. It would provide that a person who breaches a condition after deliberately or recklessly avoiding knowledge of the relevant condition can face criminal liability, without extending the criminal offence to cover persons who breach conditions accidentally.*

LORD ROSSER  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 57 stand part of the Bill.*

**Clause 58**

LORD ROSSER  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 58 stand part of the Bill.*

**Clause 59**

LORD ROSSER  
LORD PADDICK

*The above-named Lords give notice of their intention to oppose the Question that Clause 59 stand part of the Bill.*

**Clause 60**

LORD PADDICK  
LORD ROSSER

*The above-named Lords give notice of their intention to oppose the Question that Clause 60 stand part of the Bill.*

**Clause 61**

LORD PADDICK  
LORD ROSSER

*The above-named Lords give notice of their intention to oppose the Question that Clause 61 stand part of the Bill.*

**Clause 62**

BARONESS WHITAKER

Page 57, leave out line 7 and insert –

“(d) a constable, following a request of the occupier or a representative of the occupier,”

***Member’s explanatory statement***

*This is a JCHR recommendation. This amendment would provide that, as part of the conditions for the new offence of criminal trespass only a police officer could request a person to leave land and only following a request by the occupier of the land.*

LORD ROSSER  
BARONESS MASSEY OF DARWEN

Page 57, line 11, at end insert –

“(1A) A constable may only make a request under subsection (1)(d) where the constable has ascertained from the local authority within whose area the land is situated that there is a suitable pitch for P’s caravan or caravans on a relevant caravan site which is situated in the local authority’s area and that P has been informed of that.

(1B) For the purposes of this section, “caravan”, “caravan site”, “relevant caravan site”, “relevant site manager” and “registered social landlord” have the same meanings as in section 62A(6) of the Criminal Justice and Public Order Act 1994.”

***Member’s explanatory statement***

*This is based on a JCHR recommendation. The amendment would provide that a person only commits an offence where they are trespassing on land having been offered a suitable pitch at a caravan site in the local authority’s area.*

LORD ROSSER

Page 57, line 25, leave out “or is likely to be caused”

***Member’s explanatory statement***

*This is part of a group of amendments to Clause 57. It would limit the new offence to where damage and disruption has been caused, rather than where it is deemed “likely to” be caused or conduct is deemed “likely to” take place.*

Page 57, leave out lines 27 to 29

**Member's explanatory statement**

*This is part of a group of amendments to Clause 57. It would limit the new offence to where damage and disruption has been caused, rather than where it is deemed "likely to" be caused or conduct is deemed "likely to" take place.*

Page 57, line 31, leave out "or is likely to be caused"

**Member's explanatory statement**

*This is part of a group of amendments to Clause 57. It would limit the new offence to where damage and disruption has been caused, rather than where it is deemed "likely to" be caused or conduct is deemed "likely to" take place.*

Page 57, line 32, leave out "or likely to be carried on"

**Member's explanatory statement**

*This is part of a group of amendments to Clause 57. It would limit the new offence to where damage and disruption has been caused, rather than where it is deemed "likely to" be caused or conduct is deemed "likely to" take place.*

Page 57, line 33, leave out "or is likely to be caused"

**Member's explanatory statement**

*This is part of a group of amendments to Clause 57. It would limit the new offence to where damage and disruption has been caused, rather than where it is deemed "likely to" be caused or conduct is deemed "likely to" take place.*

Page 57, line 34, leave out "or likely to be carried on"

**Member's explanatory statement**

*This is part of a group of amendments to Clause 57. It would limit the new offence to where damage and disruption has been caused, rather than where it is deemed "likely to" be caused or conduct is deemed "likely to" take place.*

LORD ROSSER  
BARONESS MASSEY OF DARWEN

Page 59, line 20, at end insert " , but

does not include any property that is, or forms part of, P's principal residence."

**Member's explanatory statement**

*This is based on a JCHR recommendation. This amendment would provide that a police officer does not have the power to seize a vehicle that is a person's home.*

**After Clause 62**

BARONESS WHITAKER

Insert the following new Clause –

**“Duty of local authorities to provide sites for Gypsies, Roma and Travellers**

- (1) It is the duty of every local authority to exercise their powers under section 24 of the Caravan Sites and Control of Development Act 1960 (power of local authorities to provide sites for caravans) so as to provide adequate accommodation for Gypsies, Roma and Travellers residing in or resorting to their area.
- (2) The Minister may, if at any time it appears to them to be necessary to do so, give directions to any such local authority requiring them to provide such sites or additional sites for the accommodation of such numbers of caravans as may be specified in the Directions.”

***Member’s explanatory statement***

*This is a recommendation by the JCHR. It would reintroduce a statutory duty to require that local authorities provide authorised sites for the Gypsy, Roma and Traveller community.*

**Clause 64**

LORD ROSSER

Page 62, leave out lines 41 to 43 and insert –

- “(5) Guidance under this section –
- (a) must be laid before Parliament, and
  - (b) is subject to annulment in pursuance of a resolution of either House of Parliament.”

***Member’s explanatory statement***

*This is based on a DPRRC recommendation. Provides that guidance issued by the Secretary of State under this section must be subject to parliamentary scrutiny, under the negative procedure.*

**Clause 140**

LORD PONSONBY OF SHULBREDE

Page 129, leave out lines 33 to 41

***Member’s explanatory statement***

*This would remove the provisions which allow an SVRO to be used where a person was in the company of another person who used or was carrying a knife.*

Page 136, line 2, at end insert –

- “(2A) Guidance under this section may not be made unless a draft of the guidance has been laid before, and approved by a resolution of, both Houses of Parliament.”

**Member's explanatory statement**

*This is based on a recommendation of the DPRRC. This would require guidance issued by the Secretary of State on Serious Violence Reductions Orders to be subject to parliamentary scrutiny, subject to the affirmative procedure.*

*Lord Ponsonby of Shulbrede gives notice of his intention to oppose the Question that Clause 140 stand part of the Bill.*

**After Clause 170****LORD COAKER**

Insert the following new Clause—

**“Offence of assaulting a retail worker**

- (1) It is an offence for a person to assault, threaten or abuse another person—
  - (a) who is a retail worker, and
  - (b) who is engaged, at the time, in retail work.
- (2) No offence is committed under subsection (1) unless the person who assaults, threatens or abuses knows or ought to know that the other person—
  - (a) is a retail worker, and
  - (b) is engaged, at the time, in retail work.
- (3) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months, a fine, or both.
- (4) Evidence from a single source is sufficient to establish, for the purposes of this section—
  - (a) whether a person is a retail worker, and
  - (b) whether the person is engaged, at the time, in retail work.
- (5) The offence under subsection (1) of threatening or abusing a retail worker is committed by a person only if the person—
  - (a) behaves in a threatening or abusive manner towards the worker, and
  - (b) intends by the behaviour to cause the worker or any other person fear or alarm or is reckless as to whether the behaviour would cause such fear or alarm.
- (6) Subsection (5) applies to—
  - (a) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done,
  - (b) behaviour consisting of—
    - (i) a single act, or
    - (ii) a course of conduct.
- (7) Subsections (8) to (10) apply where, in proceedings for an offence under subsection (1), it is—
  - (a) specified in the complaint that the offence is aggravated by reason of the retail worker's enforcing a statutory age restriction, and,
  - (b) proved that the offence is so aggravated.
- (8) The offence is so aggravated if the behaviour constituting the offence occurred because of the enforcement of a statutory age restriction.

**After Clause 170 - continued**

- (9) Evidence from a single source is sufficient to prove that the offence is so aggravated.
- (10) Where this section applies, the court must—
- (a) state on conviction that the offence is so aggravated,
  - (b) record the conviction in a way that shows that the offence is so aggravated,
  - (c) take the aggravation into account in determining the appropriate sentence, and
  - (d) state—
    - (i) where the sentence imposed in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
    - (ii) otherwise, the reasons for there being no such difference.
- (11) In this section—
- “enforcement”, in relation to a statutory age restriction, includes—
- (a) seeking information as to a person’s age,
  - (b) considering information as to a person’s age,
  - (c) refusing to sell or supply goods or services,
- for the purposes of complying with the restriction (and “enforcing” is to be construed accordingly),
- “statutory age restriction” means a provision in an enactment making it an offence to sell or supply goods or services to a person under an age specified in that or another enactment.
- (12) In this section, “retail worker”—
- (a) means a person—
    - (i) whose usual place of work is retail premises, or
    - (ii) whose usual place of work is not retail premises but who does retail work,
  - (b) includes, in relation to a business that owns or occupies any premises in which the person works, a person who—
    - (i) is an employee of the business,
    - (ii) is an owner of the business, or
    - (iii) works in the premises under arrangements made between the business and another person for the provision of staff,
  - (c) also includes a person who delivers goods from retail premises.
- (13) For the purposes of subsection (12), it is irrelevant whether or not the person receives payment for the work.
- (14) In proceedings for an offence under subsection (1), it is not necessary for the prosecutor to prove that the person charged with the offence knew or ought to have known any matter falling within subsection (12)(b) in relation to the person against whom the offence is alleged to have been committed.
- (15) In this section, “retail premises” means premises that are used wholly or mainly for the sale or supply of goods, on a retail basis, to members of the public.

**After Clause 170 - continued**

- (16) In this section, “retail work” means –
- (a) in the case of a person whose usual place of work is retail premises, any work in those retail premises,
  - (b) in the case of a person whose usual place of work is not retail premises, work in connection with –
    - (i) the sale or supply of goods, on a retail basis, to members of the public, or
    - (ii) the sale or supply of services (including facilities for gambling) in respect of which a statutory age restriction applies,
  - (c) subject to subsection (17), in the case of a person who delivers goods from retail premises, work in connection with the sale or supply of goods, on a retail basis, to members of the public.
- (17) A person who delivers goods from retail premises is doing retail work only during the period beginning when the person arrives at a place where delivery of goods is to be effected and ending when the person leaves that place (whether or not goods have been delivered).
- (18) In this section, references to working in premises includes working on any land forming part of the premises.”

BARONESS NEVILLE-ROLFE  
LORD COAKER

Insert the following new Clause –

**“Offence of assaulting etc. a person providing a retail service to the public**

- (1) This section applies to an offence of common assault, battery, threatening or abusive behaviour, or intentional harassment that is committed against a person providing a retail service to the public acting in the exercise of functions as such a worker.
- (2) A person guilty of an offence to which this section applies is liable –
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both.
- (3) Subsection (2) applies only where the person who commits the offence knows or ought to know that the other person is providing a retail service to the public.
- (4) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (5) In consequence of subsections (1) to (4) –
  - (a) in section 39 of the Criminal Justice Act 1988 (which provides for common assault and battery to be summary offences punishable with imprisonment for a term not exceeding 6 months), after subsection (2) insert –

**After Clause 170 - continued**

- “(3) Subsection (1) is also subject to section (*Offence of assaulting etc. a person providing a retail service to the public*) of the Police, Crime, Sentencing and Courts Act 2021 (which makes provision for increased sentencing powers for offences of common assault and battery committed against a person providing a service to the public in the exercise of functions as such a worker).”;
- (b) in section 4 of the Public Order Act 1986 (which provides for threatening behaviour to be a summary offence punishable with imprisonment for a term not exceeding 6 months), after subsection (4) insert—
- “(5) This section is subject to section (*Offence of assaulting etc. a person providing a retail service to the public*) of the Police, Crime, Sentencing and Courts Act 2021 (which makes provision for increased sentencing powers for the offence of threatening behaviour committed against a person providing a service to the public in the exercise of functions as such a worker).”;
- (c) in section 4A of the Public Order Act 1986 (which provides for intentional harassment, alarm or distress to be a summary offence punishable with imprisonment for a term not exceeding 6 months), after subsection (5) insert—
- “(6) This section is subject to section (*Offence of assaulting etc. a person providing a retail service to the public*) of the Police, Crime, Sentencing and Courts Act 2021 (which makes provision for increased sentencing powers for the offence of threatening behaviour committed against a person providing a service to the public in the exercise of functions as such a worker).”.
- (6) This section applies only in relation to offences committed on or after the day it comes into force.”

**Member’s explanatory statement**

*This amendment would increase the maximum sentence available to the courts in cases of assault, battery, threatening or abusive behaviour or intentional harassment against a person providing a retail service to the public from 6 months imprisonment to 2 years.*

BARONESS MEACHER  
BARONESS WHEATCROFT

Insert the following new Clause—

**“Restorative justice**

The Secretary of State must, every three years—

- (a) prepare an action plan on restorative justice for the purposes of improving access, awareness and capacity of restorative justice within the criminal justice system, and collecting evidence of the use of restorative justice,
- (b) lay a copy of the action plan before Parliament, and

**After Clause 170 - continued**

- (c) report on progress in implementing any previous action plan to Parliament.”

***Member’s explanatory statement***

*The amendment aims to ensure that access to restorative justice services improves over time for the benefit of victims and to reduce crime.*

LORD CASHMAN  
LORD LEXDEN

Insert the following new Clause—

**“Disregards and pardons for convictions etc. of certain offences**

- (1) The Protection of Freedoms Act 2012 is amended as follows.
- (2) In section 92 (power of Secretary of State to disregard convictions or cautions)—
  - (a) in subsection (1)(b), omit “or”,
  - (b) in subsection (1)(c), at the end insert “or”,
  - (c) after subsection (1)(c), insert—
    - “(d) any other offence which falls within subsection (1A),”
  - (d) after subsection (1), insert—
    - “(1A) An offence falls within this subsection if the offence—
      - (a) regulated, or was used in practice to regulate, sexual activity between persons of the same sex, and
      - (b) either—
        - (i) has been repealed or, in the case of an offence at common law, abolished, or
        - (ii) has not been repealed or abolished but once covered sexual activity between persons of the same sex of a type which, or in circumstances which, would not amount to the offence on the day on which this subsection comes into force.
    - (1B) Where an offence of the type described in subsection (1A) covers or once covered activity other than sexual activity between persons of the same sex, the offence falls within subsection (1A) only to the extent that it once covered sexual activity between persons of the same sex.
    - (1C) In this section, “sexual activity between persons of the same sex” includes—
      - (a) any physical or affectionate activity between persons of the same sex which is of a type which is characteristic of persons involved in an intimate personal relationship,
      - (b) conduct intended to introduce or procure such activity.”
  - (e) in subsection (3)(a), before the words “the other person” insert “in respect of an offence mentioned in subsection (1)(a)-(c)”,
  - (f) in subsection (3)(b), substitute the full stop with “, or”,
  - (g) after subsection (3)(b), insert—

**After Clause 170 - continued**

“(c) in respect of an offence that falls within subsection (1A) the conduct constituting the offence, if occurring in the same circumstances, would not be an offence on the day on which this subsection comes into force.””

**Member’s explanatory statement**

*The purpose of this new Clause is to extend the current disregard and pardon schemes in England and Wales to enable individuals who were convicted of or cautioned for offences because of engaging in same-sex sexual acts, of a kind that would be lawful today, to apply to have a conviction or caution disregarded and, if successful, be pardoned.*

Insert the following new Clause—

**“Posthumous pardons for convictions etc. of certain offences**

- (1) A person who has been convicted of, or cautioned for, an offence which falls within section 92(1A) of the Protection of Freedoms Act 2012 (“the 2012 Act”) and who has died before this section comes into force, or dies during the period of 6 months beginning with the day on which this section comes into force, is pardoned for the offence if the conduct constituting the offence, if occurring in the same circumstances, would not be an offence on the day on which this section comes into force.
- (2) A pardon under this section does not—
  - (a) affect any conviction, caution or sentence, or
  - (b) give rise to any right, entitlement or liability.
- (3) Nothing in this section affects the prerogative of mercy.
- (4) Subject to subsection (5), the following provisions of section 101 of the 2012 Act apply for the purposes of this section as they apply for the purposes of Chapter 4 of Part 5 of that Act—
  - (a) in subsection (1), the definitions of “caution”, “conviction”, and “sentence” (and the related definition of “service disciplinary proceedings”);
  - (b) subsections (2), (5) and (6).
- (5) The definition of “service disciplinary proceedings” in section 101(1) of the 2012 Act applies in accordance with subsection (4) with the modification that it also includes any proceedings (whether in England and Wales or elsewhere) under any enactment mentioned in section 164(8) of the Policing and Crime Act 2017.”

**Member’s explanatory statement**

*The purpose of this new Clause is to extend the current pardon scheme in England and Wales to provide posthumous pardons to individuals who were convicted of or cautioned for offences because of engaging in same-sex sexual acts, of a kind that would be lawful today, and who have since died or die within six months of these provisions coming into force.*

**Schedule 3**

LORD ROSSER

Page 201, leave out lines 29 and 30

***Member's explanatory statement****This amendment would remove immigration officers from the list of authorised persons who may carry out a digital extraction.*

# Police, Crime, Sentencing and Courts Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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*15 September 2021*

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