

SERIOUS ORGANISED CRIME AND POLICE BILL

FINAL REGULATORY IMPACT ASSESSMENT

PROTESTS OUTSIDE HOMES AND HARASSMENT

1. Title of Proposal

A new offence of protesting outside someone's home in a way which causes harassment, alarm or distress and the extension of harassment legislation to cover the harassment of two or more people.

2. Purpose and intended effect of measure

These proposals are intended to assist the police in the action taken to manage protests by animal rights extremists. The Government has publicly stated its commitment to protecting the bioscience and pharmaceutical industries, universities, research organisations and individuals from animal rights extremists.

Industry and victims groups are lobbying Government for specific legislation to tackle animal rights extremism and have urged Government to do more. The proposed changes to legislation do however apply more broadly than animal rights extremists and will apply to anyone who is harassing another person or causing harassment alarm or distress to someone in their home.

Protests outside homes

Objective

To reduce the harm caused to employees and families of companies who are being targeted by animal rights extremists in their home by creating a new arrestable offence of protesting outside a person's home and clarifying for how long a protestor can be directed to stay away from premises.

Background/risk assessment

The presence of groups of protestors outside the homes of employees of targeted companies is particularly distressing to victims, as it affects not just the employees of a particular company, but their families too. In one extreme case, a farmer and his family have been subjected to constant protests at his farm for the past 4 years.

Where the police are in attendance, they are generally able to contain such protests and often the issuing of a direction to leave under section 42 of the Criminal Justice and Police Act 2001 is complied with before the power to arrest becomes necessary. This power however does not cover the situation where animal rights extremists protest and leave before the police arrive or where the police are unable to enforce a direction at the scene of the protest. The new offence would address this.

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We are also clarifying the existing provisions in section 42 on how long a protestor can be directed to stay away from premises. One of the concerns raised by the police and victims is that the same protestors will return to conduct intimidatory protests at targeted premises on a regular and frequent basis. Giving the police the power to restrict a person from returning to the vicinity for up to 3 months would address this problem.

Protection from Harassment Act 1997

Objective

To give protection to people who are being harassed by extremists because of the work they do or the company for which they work.

Background

A number of companies have been granted injunctions under section 3 of the Protection from Harassment Act 1997 which restrain protestors from pursuing a course of conduct which amounts to harassment of the Directors, employees, families etc. Despite the injunctions granted to these companies it is not clear how far the 1997 Act can be used to protect employees of a company or a company itself.

To secure a conviction under section 2 of the Protection from Harassment it needs to be proven that there is a course of conduct in which a person harassed another. The courts have applied a strict interpretation of the word "another" which has confined the application of this provision to harassment of specific individuals and thus employees of a company do not presently benefit from this provision when they have not previously themselves been harassed, even though a fellow employee has been.

To address this problem, we are proposing to extend the offence in section 1 of the Act to cover harassment of two or more persons on separate occasions, even if each individual is harassed on only one occasion, where the harassment is intended to persuade any person (which may or may not be the person who is harassed) to do or refrain from doing a lawful act. We are also introducing amendments to section 3 to ensure that companies can apply for injunctions to protect persons associated with the company from harassment.

Risk assessment

The bioscience industry are concerned that victims are having to pay significant sums of money via injunctions to protect their companies and staff from animal rights activists and feel the criminal law should protect them. This proposal should make it easier for the police and CPS to charge and prosecute people for harassment offences under section 2.

3. Options

Option 1 – Do nothing

This is not an option as Government is committed to action. Government has publicly stated in the paper *Animal Welfare -Human Rights: protecting people from animal rights extremists* its commitment to introducing legislative changes to catch the activities of extremists by making it an offence to protest outside someone's home where the effect is to intimidate or cause distress and to extend harassment legislation.

Option 2 - Non-legislative measures

Government is committed to tackling animal rights extremism and set out in the paper *Animal Welfare – Human Rights: protecting people from animal rights extremists* a range of non legislative measures to address the problem. These include working with police, CPS and courts to develop the most effective and co-ordinated approach and to identify new initiatives. A new National Co-ordinator for Domestic Extremism has been appointed to develop a national strategy for the police in tackling extremism. But the legislative changes proposed in Option 3 are needed to close loopholes in the law.

Option 3 - Legislative measures

Option 3 (a) The bioscience sector has lobbied for a single piece of legislation designed to protect anyone working in biomedical research and anyone connected with it from “anti-research violence” by extremists. This is not the preferred option in the context of this Bill as it could duplicate existing law and lead to different treatment of protestors depending on what they were protesting about. It is clear that the **extreme** elements of other groups such as anti-globalisation demonstrators, anti GM crop protestors, those who protest for the rights of fathers for access to their children are increasingly adopting the same tactics as animal rights extremists.

Option 3 (b) The proposed changes to legislation do however apply more broadly than animal rights extremists and will apply to anyone who is harassing another person or causing harassment alarm or distress to someone in their home. They are ones which industry supports. Primary legislation is required to amend sections 1 and 3 of the Protection from Harassment Act 1997, section 42 of the Criminal Justice and Police Act 2001 and create a substantive new offence of protesting outside homes.

4. Benefits

Both Options 1 and 2 have been discounted as they would not meet the objectives set out earlier. Option 3 (a) has also been discounted as duplicating the existing law and complicating the actions to be taken against protestors.

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Option 3 (b)

Economic: The new offences will provide the police with more flexibility to deal with intimidatory protests outside a person's home and give victims of harassment greater protection. This in turn will lead to victims having greater confidence in the criminal justice system and the police's ability to deal with protests.

Making the new offence of protesting outside homes an arrestable offence will provide additional powers for the police. Where protestors have demonstrated outside someone's home in such a manner as to cause harassment, alarm or distress to the occupant, but have left the scene before the police get there, the police would be able to use their wider powers to deal with an individual after the event.

Action to tackle the problem of intimidatory protests outside someone's home and harassment of connected persons underlines the Government's message that it remains committed to tackling extremists.

Option 3 (b) would provide cost/benefit savings for research organisations because it could reduce the concerns of researchers that they are not adequately protected in the UK. This would encourage researchers and businesses to continue to work and invest in UK bioscience. It might also enhance recruitment for highly skilled posts in UK bioscience research.

Social - These measures should provide police with the ability to tackle extremism more effectively both in terms of detection and prevention. The measures should provide a deterrent effect, especially when combined with other measures such as post conviction ASBOs.

Environmental - None

5. Costs

Both Options 1 and 2 have been discounted but there could be a considerable reduction in the number of business in this field of work if either of these Options were adopted. Option 3 (b) has been costed.

Option 3 (b)

Economic

Costs incurred will be downstream costs to police and courts etc. The total estimated extra cost is £ 240 000 The estimated total cost to the police is £55 000, based on an estimate of the police using the new power in about 30% of cases where directions are currently given and 100 more cases of harassment. Based on this figure, magistrate and crown court costs are estimated at £65 000 and legal aid costs at £120 000.

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If industry is not confident that the police and courts have the ability to control animal rights extremists, investment will be at risk, with significant job losses or lost opportunities for future investment. This will not only undermine the world-class standing of UK bioscience and impact upon the UK trade balance, but also have public health implications arising from reduced access to innovative drugs that will be developed elsewhere, but not necessarily marketed in the UK at an early stage.

Environmental - None

Social – As in environment any losses in the sector would effect the prosperity of the neighbourhood.

6. Equity and Fairness

The policy proposal will not have any race equality impacts. The main negative and positive impacts have been considered elsewhere in this RIA.

7. Enforcement and Sanctions

Police will have powers to arrest for new offence of protesting outside homes and breach of a direction not to return to the vicinity within 3 months. Police already have powers to arrest for an offence under section 2 of the Protection from Harassment Act.

8. Monitoring and Review

We intend to monitor the use of the new powers in relation to animal rights extremist cases and are working with the police and CPS to set up a system to flag and collate data on such cases.

9. Consultation

We consulted the Association of Chief Police Officers on the new offence of protesting outside homes and the amendment to create a new offence of returning to the vicinity within 3 months. Government Departments have been consulted on the proposals.

The proposals were published in the Government's position paper *Animal Welfare- Human Rights: protecting people from animal rights extremism* which was published on 30th July. They were also included in the consultation paper on Modernising Police Powers published on 12th August.

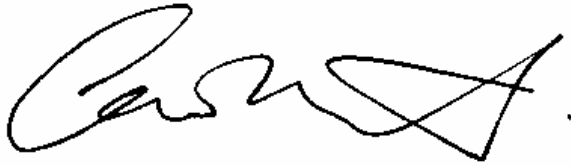
10. Summary and recommendation

Option 3 (b) is the recommended option. This proposes changes to legislation, which apply to anyone who is harassing another person or causing harassment alarm or distress to someone in their home.

11. Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed

A handwritten signature in black ink, appearing to be 'C. Smith', written in a cursive style.

November 2004

**Parliamentary Under Secretary of State for Reducing Organised and International Crime, Anti-Drugs Co-Ordination and Internationals and European Issues
Home Office**