



Ministry
of Justice

Chris Philp MP
Minister for Immigration
Compliance and Justice

Sir Charles Walker MP and Steve McCabe MP,
Chairs of the Police, Crime, Sentencing and Courts Bill, Public Bill Committee
House of Commons
London
SW1A 0AA
[By email only]

MoJ Ref: 89100

05 July 2021

Dear Sir Charles and Steve,

**POLICE, CRIME, SENTENCING AND COURTS BILL: LETTER TO THE HOUSE OF COMMONS
COMMITTEE**

I am writing to you following my commitments to do so in reference to a number of topics raised during the Commons Committee stage of the Police, Crime, Sentencing and Courts Bill.

Child Sexual Offences

I committed to come back to the Committee on two points in this area. The first was to clarify the current position of prosecuting the offence at section 8 if involving electronic or online communication. Further to discussions with colleagues, I can confirm that the existing offence at section 8 of the Sexual Offences Act 2003 can already be used to prosecute those who would cause or incite child sexual abuse regardless of the method of communication used to do so. Regardless of whether these terrible offences have involved the use of internet, online or in person communication, we have been able successfully prosecute offenders under the current law. We have had no reports of further problems in the operation of the law in this area from prosecutors or police that would suggest an amendment or extension to the existing law is needed. It is well established, through the offences themselves and the extra-territorial jurisdiction provisions contained within the Sexual Offences Act 2003, that police and prosecutors can already use these offences to pursue offenders committing these offences overseas. People are being convicted for this behaviour, the law here is working.

The second was to raise with senior colleagues the question of double jeopardy and whether eligibility for retrial under the 2003 Act should be extended. Sarah Champion pointed out that in the last few years there has been a change in the way that crimes of child sexual abuse (CSA) are viewed, and asked about the potential for a further review of this area.

Inclusion in Schedule 5 is not intended to be evidence of the seriousness with which certain offences are regarded. It is intended to draw a clear line, between those few types of offence for which, wholly

exceptionally, retrial should be available where other stringent conditions are met, and the vast majority for which it is not available, even though the offence may be very serious. Schedule 5 is limited to offences carrying a maximum penalty of life imprisonment (or in a few cases an anomalously high determinate sentence), which avoids creating a 'slippery slope', as a participant in the Parliamentary debate in 2003 put it. The gravest CSA offences are already included in the Schedule: the reason for not adding other CSA offences is not that they are not regarded as serious – of course they are – but that there would no longer be a logical reason for continuing to exclude other undeniably serious offences. Finality in criminal proceedings is a very important principle, which is why the truly exceptional nature of the retrial process must be maintained. It follows that no useful purpose would be served by carrying out a further review.

Secure 16 to 19 Academies

I committed to provide additional detail in writing regarding the involvement of local authorities in future secure schools.

The Ministry of Justice is not aware of any specific legislative barrier to the provision of secure 16 to 19 academies by local authorities. It should be noted that there would be administrative burdens for a local authority in doing so, due to the provisions of the Local Government and Housing Act 1989. It is the policy of the government that academy trusts not be local-authority influenced companies, and as a result, no academy in England is operated by a local authority. The Ministry of Justice is committed to mirroring academies policy and procedures in secure schools to the greatest extent possible and our policy on this issue will be consistent. We will though want to keep this issue under review.

Local authorities have a long-established and important role in children's social care and youth justice provision, including running secure children's homes (SCHs). My department recognises the vital work of local authorities in the SCH sector and will continue to place children in SCHs even as we plan to replace young offender institutions and secure training centres with secure schools and similar smaller units. The department also has the capability to expand local authority involvement in youth justice provision by commissioning additional beds in secure children's homes for children sentenced or remanded to custody.

The government seeks to engage the highest-quality child-focused providers in the delivery of secure schools. In 2019, the Ministry of Justice announced Oasis Charitable Trust as the provider of the first school, due to open in 2022. While the majority of organisations which meet the criteria for running secure schools are charities, I am very cognisant of the important role local authorities play and will continue to play in the children's social care and youth justice landscape.

Repealing the Bail Act

The power to remand in custody for a defendant's own protection and welfare in the Bail Act 1976 covers a broad range of situations. We do not publish data on the use of this power, but our understanding based on feedback provided by stakeholders and operational partners is that it is used rarely and as a last resort, often in conjunction with other reasons for remanding in custody, where the court can see no other option for protecting the individual themselves, or on occasions, the public.

Whilst I share your objective of ensuring that prison is not used for individuals in crisis, we need to gain a better understanding of how often this power is used, the range of circumstances in which it is used, the needs and experiences of the defendants who are remanded under it and the availability of alternative provision which can meet these needs. We have therefore committed to review this issue, including consulting with key stakeholders. The outcomes of this review will enable us to develop and implement the right approach to this issue. We aim to conclude this work by the end of this year.

Finally, I committed for specific areas of the Bill to be reviewed once implemented, and I look forward to reporting back to parliament as soon as I can on the progress of the problem-solving court pilots.

Thank you very much to the members on both sides of the Committee for their time over the past few weeks. Your contributions have played a vital role in scrutinising this important piece of legislation so that it is ready for scrutiny on Report.

I am copying this letter to all Members of the Police, Crime, Sentencing and Courts Bill Public Bill Committee. I will place a copy of this letter in the Library of the House.

Best wishes,

A handwritten signature in blue ink, appearing to read 'C. Philp', with a horizontal line extending to the right.

CHRIS PHILP MP