



Home Office

Lord Sharpe of Epsom
Parliamentary Under-Secretary of
State

2 Marsham Street
London SW1P 4DF
www.gov.uk/home-office

Lord Paddick
House of Lords
London
SW1A 0PW

18 November 2022

Dear Lord Paddick

Thank you for your contributions during the Public Order Bill's first day of Committee on Wednesday 16 November. During the debate I committed to write to you on the matter of the reasonable excuse defence.

As Lord Murray of Blidworth set out on the floor of the House, we consider the burden of proof should rest on the defendant, as they are aware of all the facts pertinent to the case. Where these specific criminal offences are committed in the course of protest, the Government believes that it is the defendant's duty to demonstrate to the court that their actions were a proportionate exercise of their article 10 and 11 rights.

I disagree that the wording of the clauses would mean that those suspected of committing the offences would be arrested and charged without consideration to whether or not they have a reasonable excuse for their actions. For example, when making a decision to charge, the Crown Prosecution Service consider whether there is a realistic prospect of conviction at a trial; whether the suspect has a reasonable excuse will factor in that decision making process. With regards to arrests, Code G of the Police and Criminal Evidence Act 1984 (PACE) states that the use of the power of arrest requires the belief that an individual is committing, has committed or is about to commit an offence, and that the arrest is necessary. I would expect any reasonable excuse a suspect may have to be considered as part of this process. If it pleases you, I am happy to make a statement in the House to that effect.

On the specific concern you raised regarding the arrest and detention of journalists at Just Stop Oil's M25 protest, I would again reiterate that I share everyone's concern. I am pleased to see that the arrest and detention of the journalists is being investigated and hope to see the outcomes shared with other forces to help prevent similar events in the future.

I am placing a copy of this letter in the House library.

Sharpe of Epsom

**Lord Sharpe of Epsom
Parliamentary Under Secretary of State, Home Office**