

# Crime and Policing Bill – Report stage

LORD HANSON OF FLINT

[OPC1169]

After Clause 164, insert the following new Clause –

## **“Notification requirements for child cruelty offenders**

- (1) The Secretary of State may by regulations require child cruelty offenders to notify specified matters to the police.
- (2) “Child cruelty offender” means a person who, in England and Wales –
  - (a) is convicted of a child cruelty offence,
  - (b) is found not guilty of a child cruelty offence by reason of insanity,
  - (c) is found to be under a disability and to have done the act charged against the person in respect of a child cruelty offence, or
  - (d) is cautioned in respect of a child cruelty offence after the person has admitted the offence,on or after the day on which the regulations come into force.
- (3) A “child cruelty offence” means an offence listed in Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*).
- (4) The regulations may in particular make provision –
  - (a) about the period for which a child cruelty offender is subject to notification requirements (which may be an indefinite period);
  - (b) about the occasions on which, or intervals at which, a child cruelty offender is required to give notifications;
  - (c) about the time limits for giving a notification;
  - (d) about how notifications are to be given to the police (which may include provision for notifications to be given to persons authorised by the police in accordance with the regulations);
  - (e) requiring a child cruelty offender to allow photographs and fingerprints to be taken for the purposes of verifying the offender’s identity;
  - (f) requiring or authorising a person with parental responsibility for a child cruelty offender to give notifications, where the offender is under 18;
  - (g) for specified notification requirements to apply to a child cruelty offender only if the offender has been given notice by a police officer, in accordance with the regulations, that those requirements apply;
  - (h) for reviews of whether a child cruelty offender should remain subject to notification requirements, or to specified notification requirements;
  - (i) for a child cruelty offender to cease to be subject to notification requirements, or to specified notification requirements, following a review.
- (5) If the regulations make provision for a child cruelty offender to be subject to notification requirements for an indefinite period, they must make provision

under which the child cruelty offender may cease to be subject to the notification requirements following a review.

- (6) The matters which may be specified in the regulations as matters which must be notified include, in particular, any matter a relevant offender is required to notify to the police by or under Part 2 of the Sexual Offences Act 2003 (as it has effect in England and Wales).
- (7) Before making regulations under this section the Secretary of State must consult—
  - (a) the National Police Chiefs' Council, and
  - (b) any other persons the Secretary of State considers appropriate.
- (8) In this section—

“notification requirements” means requirements imposed by the regulations;

“specified” means specified in the regulations.”

***Member's explanatory statement***

*This new clause gives the Secretary of State power to make regulations imposing notification requirements on persons who commit child cruelty offences.*

LORD HANSON OF FLINT

[OPC1172]

After Clause 164, insert the following new Clause—

**“Notification requirements for child cruelty offenders: enforcement**

- (1) Regulations under section (*Notification requirements for child cruelty offenders*) may provide for a person to commit an offence if, without reasonable excuse, they—
  - (a) fail to comply with a specified notification requirement, or
  - (b) in purported compliance with a specified notification requirement, notify information that they know to be false.
- (2) The maximum penalty specified for an offence must not exceed (but may be less than)—
  - (a) on summary conviction, imprisonment for a term of the general limit in a magistrates' court or a fine (or both);
  - (b) on conviction on indictment, imprisonment for a term of 5 years or a fine (or both).
- (3) Regulations under section (*Notification requirements for child cruelty offenders*) may confer on a constable power to enter and search relevant premises.
- (4) The regulations must provide for the power to be exercisable only—
  - (a) under the authority of a warrant issued by a justice of the peace (which may authorise the use of reasonable force),
  - (b) where it is necessary for a constable to enter and search the premises for the purpose of assessing the risks posed by a child cruelty offender who is subject to notification requirements, and

- (c) where a constable has sought, and been unable to obtain, entry to the premises for that purpose on at least two occasions.
- (5) Premises are “relevant premises” if there are reasonable grounds to believe (because of a notification given under the regulations or otherwise) that the child cruelty offender resides, or may regularly be found, at the premises.
- (6) In this section –
  - “notification requirements” means requirements imposed by regulations under section (*Notification requirements for child cruelty offenders*);
  - “specified” means specified in the regulations.”

***Member's explanatory statement***

*This new clause allows regulations under my previous new clause to create offences, and to confer powers of entry on constables.*

LORD HANSON OF FLINT

[OPC1171]

After Clause 164, insert the following new Clause –

**“Notification requirements for child cruelty offenders: power to amend Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*)**

- (1) The Secretary of State may by regulations amend –
  - (a) Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*) (child cruelty offences);
  - (b) section (*Notification requirements for child cruelty offenders: interpretation*) for the purposes of that Schedule.
- (2) Regulations under subsection (1) may add an offence to Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*) only if –
  - (a) the Secretary of State considers it appropriate to do so, having regard to the nature and seriousness of the harm that may be caused to persons under 18 by conduct constituting the offence, and
  - (b) the offence is not listed in Schedule 3 to the Sexual Offences Act 2003 (offences to which Part 2 of that Act applies) (disregarding for this purpose any condition subject to which an offence is listed in that Schedule).
- (3) Where an offence is capable of being committed against a person aged 18 or over, an amendment adding it to Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*) must include a condition that the victim was under 18.
- (4) An amendment of Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*) or section (*Notification requirements for child cruelty offenders: interpretation*) within subsection (5) does not apply to convictions, findings and cautions before the amendment takes effect.
- (5) An amendment is within this subsection if it –
  - (a) adds an offence,
  - (b) removes a condition relating to an offence, or

- (c) changes a condition in such a way as to cause an offence committed by or against a person of a particular age in certain circumstances, or resulting in a particular disposal, to be within the Schedule when it would not otherwise be.
- (6) Before making regulations under this section the Secretary of State must consult—
  - (a) the National Police Chiefs’ Council, and
  - (b) any other persons the Secretary of State considers appropriate.”

***Member's explanatory statement***

*This new clause confers powers to amend the list of child cruelty offences in my new Schedule inserted before Schedule 21.*

LORD HANSON OF FLINT

[OPC1173]

After Clause 164, insert the following new Clause—

**“Notification requirements for child cruelty offenders: interpretation**

- (1) In section (*Notification requirements for child cruelty offenders*)(2), a reference to a conviction includes a reference to a finding of a magistrates’ court, where the court makes an order under section 37(3) of the Mental Health Act 1983, that the accused did the act charged.
- (2) The following provisions do not apply for the purposes of section (*Notification requirements for child cruelty offenders*)(2)—
  - (a) section 82(2) of the Sentencing Code, and
  - (b) section 187(1) of the Armed Forces Act 2006,
 (conviction with absolute or conditional discharge deemed not to be a conviction).
- (3) A reference in Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*) to an offence (“offence A”) includes—
  - (a) an attempt or conspiracy to commit offence A;
  - (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to which offence A is the offence (or one of the offences) which the person believed would be committed;
  - (c) aiding, abetting, counselling or procuring the commission of offence A.
- (4) References in Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*) to a person’s age are to the person’s age at the time of the offence.
- (5) References in Schedule (*Notification requirements for child cruelty offenders: child cruelty offences*) to imprisonment include—
  - (a) a period of detention which a person is liable to serve under a detention and training order;
  - (b) a sentence of detention in a young offender institution;
  - (c) a sentence of detention under section 250 of the Sentencing Code or section 209 of the Armed Forces Act 2006;

- (d) a sentence of custody for life under section 272 of the Sentencing Code (including one passed as a result of section 210A of the Armed Forces Act 2006);
- (e) an extended sentence under section 254 of the Sentencing Code (including one passed as a result of section 221A of the Armed Forces Act 2006).”

***Member's explanatory statement***

*This new clause makes provision about the interpretation of my new clauses and new Schedule about notification requirements for child cruelty offenders.*

LORD HANSON OF FLINT

[OPC1170]

Before Schedule 21, insert the following new Schedule –

“SCHEDULE

NOTIFICATION REQUIREMENTS FOR CHILD CRUELTY OFFENDERS: CHILD CRUELTY OFFENCES

**PART 1**

CHILD CRUELTY OFFENCES

*Offences Against the Person Act 1861 (c.100)*

- 1 An offence under section 27 of the Offences Against the Person 1861 (abandoning or exposing a child), if the offender –
  - (a) was 18 or over, and
  - (b) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.

*Children and Young Persons Act 1933 (c.12)*

- 2 An offence under section 1 of the Children and Young Persons Act 1933 (child cruelty) if the offender –
  - (a) was 18 or over, or
  - (b) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.

*Infanticide Act 1938 (c. 36)*

- 3 An offence under section 1 of the Infanticide Act 1938 (infanticide).

*Female Genital Mutilation Act 2003 (c. 31)*

- 4 An offence under section 1 of the Female Genital Mutilation Act 2003 (female genital mutilation), if –
  - (a) the victim was under 18, and
  - (b) the offender –
    - (i) was 18 or over, or

- (ii) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 5 An offence under section 2 of that Act (assisting a girl to mutilate her own genitalia), if –
- (a) the victim was under 18, and
  - (b) the offender –
    - (i) was 18 or over, or
    - (ii) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.
- 6 An offence under section 3 of that Act (assisting a non-UK person to mutilate overseas a girl’s genitalia), if –
- (a) the victim was under 18, and
  - (b) the offender –
    - (i) was 18 or over, or
    - (ii) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.

*Domestic Violence, Crime and Victims Act 2004 (c. 28)*

- 7 (1) An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 of causing or allowing a person’s death, if the victim was under 18.
- (2) An offence under that section of causing or allowing a person to suffer serious physical harm, if –
- (a) the victim was under 18, and
  - (b) the offender –
    - (i) was 18 or over, or
    - (ii) is sentenced in respect of the offence to imprisonment for a term of at least 12 months.

**PART 2**

CORRESPONDING SERVICE OFFENCES

- 8 (1) An offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is an offence listed in Part 1 of this Schedule.
- (2) Section 48 of that Act (attempts, conspiracy, encouragement and assistance and aiding and abetting outside England and Wales) applies for the purposes of this paragraph as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to this paragraph.”

***Member's explanatory statement***

*This new Schedule lists offences which are child cruelty offences for the purposes of my first new clause inserted after clause 164.*

[OPC1184]

After Clause 212, insert the following new Clause –

*“OFCOM’s notices to providers of internet services*

**OFCOM’s notices to providers of internet services**

- (1) In Chapter 5 of Part 1 of the Coroners and Justice Act 2009 (coroners: further provision to do with investigations and deaths), before section 32 insert –

**“31A Duty to notify OFCOM of certain child deaths**

- (1) A senior coroner who is made aware that the body of a deceased child is within that coroner’s area must notify the Office of Communications (OFCOM) of that fact within 5 working days of being made aware of the body, unless –
- (a) the coroner decides that the death is not one into which the coroner has a duty under section 1(1) to conduct an investigation, or
  - (b) the coroner is satisfied that no purpose would be served by OFCOM giving a notice under section 101(C1) of the Online Safety Act 2023 requiring the retention of information about use of internet services by the child who has died, because such information is of no relevance to the child’s death.
- (2) In this section “child” means a person who, at the time of death, was (to the best of the coroner’s knowledge) aged between 5 and 17.
- (3) In this section “working day” means any day other than –
- (a) Saturday or Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.”
- (2) The Online Safety Act 2023 is amended in accordance with subsections (3) and (4).
- (3) In section 101 (information in connection with an investigation into the death of a child) –
- (a) in subsection (A1)(a), after “child,” insert “or (in England and Wales) notifies OFCOM of the death of a child as required by section 31A of the Coroners and Justice Act 2009,”;
  - (b) after subsection (G1) insert –
    - “(H1) Regulations under subsection (E1)(a) may make provision by reference to a document as amended from time to time.”
- (4) In section 102 (information notices), in subsection (5A)(c), for “for the period of one year beginning with the date of the notice,” substitute “ –
- (i) where the investigating authority is a senior coroner (in England and Wales), for the period of six months beginning with the date of the notice, or

- (ii) in other cases, for the period of one year beginning with the date of the notice.””

***Member's explanatory statement***

*This new clause concerns OFCOM's notices under the Online Safety Act 2023 requiring providers of internet services to retain information about use of a service by a child who has died. It requires coroners to notify OFCOM of child deaths and makes changes to the notice provisions in that Act.*

LORD HANSON OF FLINT

[OPC1187]

After Clause 212, insert the following new Clause –

*“Power to amend Online Safety Act 2023*

**Power to amend Online Safety Act 2023: AI**

- (1) The Online Safety Act 2023 is amended as follows.
- (2) After section 216 insert –

*“Power to amend Act: illegal AI-generated content etc*

**216A Power to amend Act in relation to illegal AI-generated content etc**

- (1) Subject to subsection (14)(b), the Secretary of State may by regulations amend any provision of this Act for or in connection with the purposes of minimising or mitigating the risks of harm to individuals in the United Kingdom presented by –
  - (a) illegal AI-generated content;
  - (b) the use of AI services for the commission or facilitation of priority offences.
- (2) In this section, “AI service” means an internet service that is capable (or part of which is capable) of generating AI-generated content (no matter what proportion of content on the service is AI-generated).
- (3) The provision that may be made by regulations includes provision securing that any or all of the duties set out in subsection (4) are imposed on providers of AI services in relation to –
  - (a) illegal AI-generated content;
  - (b) the design, operation or use of AI services so far as relating to illegal AI-generated content;
  - (c) the use of AI services for the commission or facilitation of priority offences.
- (4) The duties referred to in subsection (3) are –
  - (a) duties imposed on providers of regulated user-to-user services by section 9 or 10 (illegal content and activity) or any of sections 20 to 23 so far as relating to section 9 or 10;
  - (b) duties imposed on providers of regulated search services or combined services by section 26 or 27 (search content that is

illegal content) or any of sections 31 to 34 so far as relating to section 26 or 27;

- (c) duties corresponding or similar to the duties in paragraph (a) or (b).
- (5) The provision that may be made by regulations by virtue of subsection (3) includes provision imposing duties on providers of AI services in relation to illegal AI-generated content of all kinds even where a corresponding or similar duty imposed on providers of regulated user-to-user or search services relates only to priority illegal content.
  - (6) The provision that may be made by regulations includes provision securing that the duties imposed on providers of Category 1 services and Category 2A services by section 38 or 39 (fraudulent advertising), or duties corresponding or similar to those duties, are imposed on providers of AI services in relation to fraudulent advertisements (whether or not AI-generated).
  - (7) The provision that may be made by regulations includes provision securing that the requirements imposed on providers of Part 3 services by section 66 (reporting CSEA content), or requirements corresponding or similar to those requirements, are imposed on providers of AI services in relation to AI-generated CSEA content (and if such corresponding or similar requirements are imposed, regulations may amend section 67(1) so as to refer to the provision imposing them, as well as to section 66).
  - (8) The provision that may be made by regulations includes provision securing any of the following –
    - (a) that providers of AI services are subject to the requirements imposed on providers of regulated services by, or by OFCOM under, Part 6 (fees), or are subject to requirements corresponding or similar to those requirements;
    - (b) that duties imposed on OFCOM in relation to Part 3 services by Chapter 3 of Part 7 (OFCOM’s register of risks, and risk profiles), or duties corresponding or similar to those duties, are imposed on OFCOM in relation to AI services, so far as relating to illegal AI-generated content generated by such services or their use for the commission or facilitation of priority offences;
    - (c) that functions conferred on OFCOM in relation to regulated services under the following provisions, or functions corresponding or similar to those functions, are conferred on OFCOM in relation to AI services, so far as relating to provision made by the regulations –
      - (i) Chapter 4 of Part 7 (information);
      - (ii) Chapter 6 of Part 7 (enforcement), including provisions of that Chapter conferring power for OFCOM to impose monetary penalties;
    - (d) that powers conferred on OFCOM in relation to Part 3 services under Chapter 5 of Part 7 (notices to deal with terrorism content and CSEA content), or powers corresponding or similar to those powers, are conferred on OFCOM in relation

- to AI services, so far as relating to AI-generated terrorism content or AI-generated CSEA content;
- (e) that OFCOM have power to make provision in guidance or a code of practice relating to provision made by the regulations.
- (9) The provision that may be made by regulations includes provision securing that any provision of this Act that applies in relation to illegal content or illegal content of a particular kind applies (with or without modifications), or does not apply, in relation to illegal AI-generated content or illegal AI-generated content of a particular kind.
- (10) The provision that may be made by regulations includes provision amending any definition in this Act, including (but not limited to) –
- (a) provision securing that AI services fall within the definition of “regulated user-to-user service”, “regulated search service”, “combined service”, “Part 3 service” or “regulated service” (so far as that is not already the case) or are excluded from any of those definitions;
- (b) provision giving the meaning of any defined term in relation to AI services, AI-generated content or AI-generated content of a particular kind.
- (11) Regulations may make provision securing that providers of specified kinds of AI services are exempt from the requirement to comply with specified duties or requirements imposed by the regulations.
- (12) The provision that may be made by regulations includes –
- (a) provision in relation to AI services that corresponds or is similar to provision in Chapter 2 of Part 7 (register of categories of services);
- (b) provision conferring power on the Secretary of State to make regulations containing provision in relation to AI services that corresponds or is similar to provision that may be made by regulations under paragraph 1 of Schedule 11 (“threshold conditions”).
- (13) Regulations may make provision having the effect that AI services provided from outside the United Kingdom are regulated by this Act (as well as AI services provided from within the United Kingdom), but, if they do so, must contain equivalent provision to that made in relation to user-to-user services and search services by section 4(5) and (6) (UK links).
- (14) Regulations –
- (a) may (among other things) amend any provision of this Act that mentions an automated tool or a bot (including section 59(12));
- (b) may not amend section 234 (“harm” etc).
- (15) Regulations –
- (a) may make different provision with regard to AI services of different kinds;

- (b) may make provision with regard to AI services generally or any one or more specified kinds of AI service;
  - (c) may make different provision with regard to AI-generated content generated by different kinds of automated tools or functionalities available on AI services;
  - (d) may make provision with regard only to AI-generated content generated by specified kinds of automated tools or functionalities available on AI services.
- (16) Regulations may make provision as to the meaning of any reference to “AI-generated”, or “AI-generated content”, inserted by the regulations into this Act.
- (17) In this section –
- “AI” is short for artificial intelligence;
  - “AI-generated CSEA content” means CSEA content that is AI-generated, and “CSEA content” here has the same meaning as in Part 3 (see section 59) except that section 59(14)(a) is to be disregarded;
  - “AI-generated terrorism content” means terrorism content that is AI-generated, and “terrorism content” here has the same meaning as in Part 3 (see section 59) except that section 59(14)(a) is to be disregarded;
  - “amend” includes repeal and apply (with or without modifications);
  - “fraudulent advertisement” has the meaning given by section 38 or 39 (depending on the kind of AI service in question), disregarding the fact that the definition in those sections applies in relation only to a Category 1 service or a Category 2A service;
  - “illegal AI-generated content” means illegal content that is AI-generated;
  - “illegal content” has the same meaning as in Part 3 (see section 59), except that where that term is used in the definition of “illegal AI-generated content”, section 59(14)(a) is to be disregarded;
  - “priority illegal content” has the same meaning as in Part 3 (see section 59);
  - “priority offence” has the same meaning as in Part 3 (see section 59);
  - “regulations”, except in subsection (12)(b), means regulations under subsection (1);
  - “specified” means specified in regulations.”
- (3) In section 225 (Parliamentary procedure for regulations), in subsection (1), after paragraph (f) insert –
- “(fa) regulations under section 216A(1),”.

***Member's explanatory statement***

*This new clause inserts into the Online Safety Act 2023 a power for the Secretary of State to make regulations amending that Act in order to minimise or mitigate the risks of harm to individuals presented by illegal AI-generated content.*

LORD HANSON OF FLINT

[OPC1175]

Clause 215, page 260, line 14, after “149(7)” insert “, (Notification requirements for child cruelty offenders), (Notification requirements for child cruelty offenders: power to amend Schedule (Notification requirements for child cruelty offenders: child cruelty offences)),”

***Member's explanatory statement***

*This amendment provides for regulations under the specified provisions to be subject to the affirmative procedure.*

BARONESS LEVITT

[OPC1197]

Clause 217, page 262, line 10, after “Part” insert “(except section (OFCOM’s notices to providers of internet services)(1))”

***Member's explanatory statement***

*This amendment is needed because otherwise the amendment made by subsection (1) of my new clause inserted after clause 212 would have UK extent (it should extend only to England and Wales).*

LORD HANSON OF FLINT

[OPC1198]

Clause 217, page 263, line 3, leave out paragraph (v)

***Member's explanatory statement***

*This amendment removes a provision which is not needed, as the extent of clause 212 is provided for by clause 217(2)(z).*

LORD HANSON OF FLINT

[OPC1174]

Clause 218, page 263, line 28, at end insert –

“(ba) sections (Notification requirements for child cruelty offenders), (Notification requirements for child cruelty offenders: enforcement), (Notification requirements for child cruelty offenders: power to amend Schedule (Notification requirements for child cruelty offenders: child cruelty offences)) and (Notification requirements for child cruelty offenders: interpretation) and Schedule (Notification requirements for child cruelty offenders: child cruelty offences);”

***Member's explanatory statement***

*This amendment provides for the specified provisions to come into force on Royal Assent.*

BARONESS LEVITT

[OPC1186]

Clause 218, page 263, line 31, after “212” insert “, (OFCOM’s notices to providers of internet services)”

***Member's explanatory statement***

*This amendment has the effect that commencement of my new clause inserted after clause 212 will be by regulations.*