

CRIME AND POLICING BILL

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

The Government has tabled further amendments to the Crime and Policing Bill for Lords Report stage. These amendments introduce new delegated powers and modify an existing power. This supplementary memorandum explains why the new/modified powers have been taken and the justification for the procedure selected.

New clause “*Notification requirements for child cruelty offenders*”: Power to make regulations imposing notification requirements on convicted or cautioned child cruelty offenders

New clause “*Notification requirements for child cruelty offenders: power to amend Schedule (Notification requirements for child cruelty offenders: child cruelty offences)*”: Power amend new Schedule “*Notification requirements for child cruelty offenders: child cruelty offences*”

Power conferred on: Secretary of State

Power exercised by: Regulations made by statutory instrument

Parliamentary procedure: Draft affirmative procedure

Context and purpose

1. As part of the Government’s commitment to safeguarding the most vulnerable in our society, the Government has tabled amendments for Lords Report stage of the Crime and Policing Bill which confer on Secretary of State the power to make regulations establishing notification requirements for individuals cautioned or convicted of specified child cruelty offences. Such requirements would be analogous to those provided for in Part 2 of the Sexual Offences Act 2003 (“the 2003 Act”) in respect of convicted sex offenders. As such, child cruelty offenders would be required to notify the police of certain personal information (name, address etc) and to keep it up to date; failure to comply with the requirements would be a criminal offence. This measure will strengthen the ability of police and partner agencies to monitor and manage risk beyond an offender’s licence period, ensuring continued protection for children.
2. Under Part 2 of the 2003 Act individuals convicted of specified sexual offences must comply with notification requirements. This includes providing certain details to the police, including: their name and address, date of birth and national insurance number (see section 83 of the 2003 Act). The initial notification must be made by the offender at a designated police station within three days (or where serving a custodial sentence, within three days of their release on licence). Offenders are required to provide updates annually (section 85 of the 2003 Act) or whenever their details change (section 84 of the 2003 Act), for example following a change of address.

Failure to comply with the notification requirements is a criminal offence, subject to a maximum penalty of five years' imprisonment (section 91 of the 2003 Act).

3. New clause "*Notification requirements for child cruelty offenders*" confers a power on the Secretary of State, by regulations, to impose notification requirements on convicted or cautioned child cruelty offenders. The cohort of offenders that may be made subject to the requirements are those convicted or cautioned of an offence listed in new Schedule "*Notification requirements for child cruelty offenders: child cruelty offences*". Subsection (4) of new clause "*Notification requirements for child cruelty offenders*" sets out a non-exhaustive list of the provisions that may be made by the regulations, including provisions as to the duration of any notification requirements (which may be indefinite, albeit subject to review), about the time limit for making notifications, and the powers of the police to take the biometric data such as fingerprints and photographs of persons subject to the requirements for the purposes of confirming identity.
4. Subsection (6) of new clause "*Notification requirements for child cruelty offenders*" expressly provides that regulations made under the new clause may make provision equivalent to that included in Part 2 of the 2003 Act.
5. New clause "*Notification requirements for child cruelty offenders: enforcement*" provides that regulations made under new clause "*Notification requirements for child cruelty offenders*" may include provision to create offences in respect of breaches of the notification requirements, including by notifying false information (subject to a maximum penalty of five years' imprisonment), and to confer powers of entry on constables (authorised by a warrant issued by a magistrate) for the purpose of assessing the risks posed by a child cruelty offender who is subject to notification requirements.
6. New clause "*Notification requirements for child cruelty offenders: power to amend Schedule (Notification requirements for child cruelty offenders: child cruelty offences)*" confers on the Secretary of State a power, by regulations, to amend new Schedule "*Notification requirements for child cruelty offenders: child cruelty offences*" and new clause "*Notification requirements for child cruelty offenders: interpretation*" for the purposes of that Schedule. The power to amend the new Schedule extends to adding an offence, removing a threshold relating to an offence, or changing a threshold 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. Accordingly, the regulation-making power cannot be exercised so as to remove an offence currently listed in the Schedule.
7. The Secretary of State is required to consult the National Police Chiefs' Council and such other persons as they consider appropriate before making regulations under either of new clauses "*Notification requirements for child cruelty offenders*" or "*Notification requirements for child cruelty offenders:*

power to amend Schedule (Notification requirements for child cruelty offenders: child cruelty offences)”.

Justification for the power

8. The need to strengthen the management of child cruelty offenders post release from custody has been the subject on on-going parliamentary debate, with the Official Opposition tabling amendments during the passage of the now Sentencing Act 2026 and at Committee and Report stages of this Bill. As indicated above, the Government acknowledges the need to strengthen current offender management arrangements for this cohort and that the introduction of notification requirements should be one element of this. The Government further accepts the desirability of legislating for such notification requirements in this Bill.
9. The Government acknowledges that the notification regimes for other cohorts of offenders or persons subject to civil prevention orders are set out in primary legislation. In the case of sex offenders, the regime is provided for in Part 2 of the 2003 Act, albeit that this contains certain delegated powers, for example in section 83(5)(h) which confers a power, by regulations, to add to the list of notifiable information. The relevant provisions in Part 2 of the 2003 Act run to 41 sections and four Schedules which are themselves being amended by provision in Chapter 5 of Part 5 of this Bill.
10. In the current circumstances, the Government considers that proceeding by regulation-making powers is the most practical means of delivering a notification regime for child cruelty offenders in this Bill. Proceeding in this way will enable the Government to consult with the police and others before enshrining a scheme in law, and respond flexibly to align these requirements with the overhaul of the framework for managing sex offenders announced in the Violence Against Women and Girls strategy published in December 2025.
11. It remains the case, however, that the Bill itself will set out the essential core policy addressing who is in scope (listed child-cruelty offences and threshold tests) and what the regime is (existence and scope of notification requirements), while leaving technical and administrative detail (content, timing, method, periodicity and review) to regulations.

Justification for the procedure

12. By virtue of an amendment to clause 215(3)(a) regulations made under new clauses “*Notification requirements for child cruelty offenders*” and “*Notification requirements for child cruelty offenders: power to amend Schedule (Notification requirements for child cruelty offenders: child cruelty offences)*” will be subject to the draft affirmative procedure. The Government considers that the draft affirmative procedure is appropriate for such powers given the impact of provision made by such regulations on persons to be subject to the notification requirements, given that other similar notification

regimes are provided for in primary legislation and given the Henry VIII nature of the power to amend new Schedule “*Notification requirements for child cruelty offenders: child cruelty offences*”.

New clause “*OFCOM’s notices to providers of internet services*”: Power to amend section 101 of the Online Safety Act 2023 (information in connection with the death of a child) to permit creation of an ambulatory reference in regulations

Power conferred on: Secretary of State

Power exercised by: Regulations made by statutory instrument

Parliamentary procedure: Negative procedure

Context and purpose

13. The Government has committed to consider how to improve and expedite the existing process for preservation of a child’s social media data where a coroner is investigating the child’s death. As part of this commitment, the Government has tabled a new clause which will require coroners in England and Wales to notify Ofcom of all reported deaths involving a child aged five or above, unless the coroner is satisfied that such data is of no relevance to the child’s death. A request for Ofcom to issue services with a data preservation notice (“DPN”) will therefore become automatic in these non-expected cases.
14. To support these changes, the Secretary of State will exercise an existing power in section 101(E1)(a) of the Online Safety Act 2023 to specify in regulations the kinds of online services that should receive a DPN automatically once Ofcom has been notified of the death by the coroner. These regulations will help ensure that, in cases in which the coroner has not been informed of, or cannot identify in the time available, a particular service of interest in connection with the death, a DPN can still be issued to a group of services which are thought could be of relevance (based on evidence showing the popularity of such services with children).
15. Subsection (3) of new clause “*OFCOM’s notices to providers of internet services*” amends the existing regulation-making power in section 101(E1)(a) of the Online Safety Act 2023 to provide explicit vires for the regulations to create an ambulatory reference.

Justification for the power

16. New clause “*OFCOM’s notices to providers of internet services*” is amending the regulation-making power at section 101(E1) of the Online Safety Act 2023 so that the Secretary of State may make regulations which, if needed, make reference to external documents as amended from time to time. The intention would be to describe the kinds of services which a trusted research organisation has identified as being most popular with

children. An ambulatory reference is needed so that the regulations are able to keep pace with the evolving online safety landscape, including the fluctuating trends and use of various services by children as demonstrated by such research. This is particularly important given the aim of this provision and the speed with which a static list of services could change. It would not be feasible to seek amending secondary legislation whenever such a change was required.

Justification for the procedure

17. The regulation-making power at section 101(E1) of the Online Safety Act 2023 is subject to the negative procedure. This is considered appropriate since the requirements and obligations on coroners, Ofcom and services providers are set out in primary legislation, and this power is limited to describing the kinds of regulated service caught by the provision. The power is limited so that it can only be used to identify kinds of services which fall within the definition of “regulated service” in the Online Safety Act. The modification to this existing power is such that the Government remains satisfied that the negative procedure is appropriate.

New clause “*Power to amend Online Safety Act 2023: AI*” – new section 216A of the Online Safety Act 2023: Power to amend Online Safety Act in relation to illegal AI-generated content etc

Power conferred on: Secretary of State

Power exercised by: Regulations made by statutory instrument

Parliamentary procedure: Affirmative

Context and purpose

18. The Online Safety Act 2023 (“the OSA”) requires providers of certain internet services to comply with duties to protect their UK users from illegal content on their service. The OSA currently regulates some generative AI services, including chatbots, where they meet the definition of a “search service” (i.e. because they search the live internet) or a “user-to-user service” (because they have functionality that allows users to share content with other users). However, as some generative AI services only draw responses from their underlying model rather than from the live internet and do not have content sharing functionality, they remain unregulated under the OSA. These types of services and tools are rapidly evolving, and the Government is concerned that these services, in particular chatbots, may be exploited for criminal misuse or expose UK users to AI-generated illegal content.

19. New section 216A of the OSA (as inserted by new clause “*Power to amend Online Safety Act 2023: AI*”) will enable the Secretary of State, by regulations, to bring currently unregulated generative AI services, including chatbots in scope of regulation under the OSA and subject to duties to tackle

illegal AI content and the commission or facilitation of priority offences (as defined by the OSA) on their services.

20. The regulations may make provision to exempt certain types of generative AI services, or to specify threshold conditions that service providers must meet in order to be regulated by the Online Safety Act. This will ensure future regulations are targeted and proportionate.
21. The regulations may impose specific duties on providers of generative AI services, including chatbots, that correspond or are similar to a number of existing duties in the OSA relating to illegal content and activity. These include the OSA's illegal content duties for user-to-user or search services, and reporting duties related to reporting child sexual exploitation and abuse ("CSEA") content.
22. The regulations may also impose on Ofcom duties in relation to generative AI services, including chatbot service providers, corresponding or similar to the OSA's existing duties relating to Ofcom's register of risks and risk profiles, so far as these relate to illegal AI-generated content generated by such services or the use of these services to facilitate or commission a priority offence. Similarly, the regulations may also confer on Ofcom functions corresponding or similar to Ofcom's existing powers to provide notices to service providers to deal with terrorism content and CSEA content – where this is AI generated. They may also confer on Ofcom functions in relation to generative AI services regarding information-gathering, enforcement and the production of guidance or a code of practice relating to regulating chatbots.
23. The regulations may make provision having the effect that generative AI services, including chatbots, provided from outside the United Kingdom, provided they have links with the UK, are regulated by the OSA. A service is considered as having links with the UK if a) the service is capable of being used in the UK by UK users, and b) there are reasonable grounds to believe that there is a material risk of significant harm to UK users from AI generated illegal content on the service. This corresponds to the existing conditions in the OSA.

Justification for the power

24. The OSA as it currently stands captures many generative AI services, including some chatbots. However, as the technology and online environment continues to evolve it is vital that the Government is able to move quickly and has the flexibility to bring into scope those AI generative AI services, in particular chatbots which remain unregulated due to certain technicalities of the way that the service operates. Nonetheless these services pose a risk of harm to UK users from illegal content.
25. Chatbot services function in a number of distinct ways as compared to regulated services under the OSA, such as traditional search engines or social media platforms. It is therefore important that as well as bringing

currently unregulated services into scope, Government is able to set out more tailored duties on AI chatbots to ensure the effectiveness of the duties to tackle illegal content. A delegated power will allow the Government to keep pace with technological change and ensure regulations are proportionate and effective.

26. This power to make regulations will enable the Government to move quickly to make regulations, following a period of consultation, if the evidence supports this course of action, rather than waiting for another suitable Bill. Until necessary consultation and evidence gathering has concluded, the necessary evidence about the effectiveness of certain measures and duties is not available. It is therefore not possible to set out more detailed provisions about these duties on the face of the Bill.
27. This is a discretionary power which the Secretary of State may only use for the purposes of minimising or mitigating the risks of harm to UK users from a) illegal AI-generated content and b) the use of AI services for the commission of facilitation of priority offences (as defined by the OSA). The power provides for predictability about its use by the Secretary of State allowing duties to be imposed that correspond to or are similar to the OSA's existing duties to deliver these objectives. The application of the power is therefore appropriately constrained and predictable and would not present a major departure from the regulatory approach currently taken under the OSA. Similarly, the functions and duties that may be conferred to Ofcom by the power are suggested to be the same as or similar to a number of Ofcom's existing duties and powers. This ensures a consistent approach which provides regulatory certainty for companies.

Justification for the procedure

28. By virtue of subsection (3) of the new clause, regulations made under new section 216A of the OSA will be subject to the draft affirmative procedure. The provisions specified in regulations made by the Secretary of State will determine what new services will be brought into scope of the OSA, what duties will be imposed on which services and what functions Ofcom will have. The draft affirmative procedure is considered appropriate, as this will provide a suitable degree of Parliamentary oversight for the new provisions and will provide the opportunity for Parliament to debate and approve the requirements of the provisions. The draft affirmative procedure is also apt given the Henry VIII nature of the power.

Home Office / Ministry of Justice / Department of Science, Innovation and Technology
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