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Sir Roger Gale MP
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Co-Chairs
Public Bill Committee, Crime and Policing Bill
House of Commons

23 April 2025

Dear Sir Roger, Emma, Mark and Rosena,

CRIME AND POLICING BILL: GOVERNMENT AMENDMENTS FOR COMMITTEE

I am writing to provide members of the Public Bill Committee with details of a second tranche of Government amendments which I have tabled yesterday for Committee stage.

The amendments are all to Chapter 1 of Part 14 which relate to Youth Diversion Orders (YDOs) – a new counter-terrorism risk management tool for young people who have committed a terrorism-related offence or have engaged in conduct likely to facilitate a terrorism offence.

Application of YDOs to Scotland and Northern Ireland

YDOs are a reserved/excepted matter as they relate to national security. However, it is important that the legislation aligns with devolved youth justice frameworks in Scotland and Northern Ireland. Amendments to clauses 113, 114 and 121 ensure that the legislation makes accurate references to existing devolved authorities and processes.

Power to make youth diversion orders

The amendments to clause 110 are technical and amend the concept of an “offence with a terrorist connection” by adding that this must be a “relevant offence with a terrorist connection”. This has the effect of clarifying that the court dealing with an application for a YDO has to make its own determination as to whether an offence has a terrorist connection rather than by reference to sentencing legislation, which is not relevant to a YDO given it is a new civil order.



Measures which may be imposed as part of a YDO

Clause 112 already includes a non-exhaustive list of measures that can be included as part of a YDO. Amendments to clause 112 add further examples of measures that may be imposed through a YDO. The purpose of these amendments is to support transparency as well as provide a clearer statutory basis for the most likely measures. Additional examples include restrictions on entering a specific area, travel restrictions within or outside the UK and restrictions on the possession of weapons and explosives.

The amendments to clause 112 also make changes to the requirements that can be imposed on an individual, including that the individual may be required to comply with notification requirements (as detailed in new clause “*Notification requirements*”) where this is included on a YDO application.

The amendment to clause 115 clarifies the measures that can and cannot be imposed in an Interim YDO, including notification requirements, which can be imposed as part of an interim YDO. New subsection (1B) of clause 118 provides that it is a criminal offence to knowingly provide false information when purporting to comply with a notification requirement. The notification requirement will not be automatic or mandatory for every YDO or Interim YDO.

The amendment to clause 116 provides that a court may only vary a YDO to include an additional requirement or extend its duration if it considers it necessary; and that certain provisions in clause 112 about the content of orders applies equally to such additional prohibitions or requirements.

New clauses “*Electronic monitoring of compliance with order: England and Wales*” and “*Conditions for imposing electronic monitoring requirement: England and Wales*” enable a YDO to include an electronic monitoring requirement. This would be to enable effective monitoring of measures such as curfew requirements and exclusion measures. New clause “*Data from electronic monitoring in England and Wales: code of practice*” requires the Secretary of State to issue a code of practice for the processing of data gathered under electronic monitoring requirements. Following engagement with the Scottish Government and Department of Justice in Northern Ireland, it is apparent that there are significant legal and operational complexities in applying such measures in those jurisdictions, accordingly electronic monitoring will apply to England and Wales only.



Appeals

Clause 117 sets out the appeals process for the YDO. The amendments to this clause aim to streamline the appeals process and make this more consistent to the processes imposed for the new child criminal exploitation prevention orders also in the Bill and which were a manifesto commitment. An appeal from a magistrates' court decision is to go to the Crown Court, and from the Crown Court decision is to the Court of Appeal (and the equivalent steps in Scotland and Northern Ireland). It also enables an application to vary or discharge a YDO made on appeal to be made to the court whose decision was appealed against (instead of the appeal court); and for Rules of Court to make provision about appeals against decisions made without notice to the Respondent. This simplifies the process for varying or discharging an order YDO by enabling that application to be made to a lower court.

Offence of breaching a YDO

Clause 118 introduces a new offence for breaching a YDO. Currently, clause 118 provides that, where the offence is committed by someone under the age of 18, the offence is summary-only, with a maximum penalty of six months in custody or a fine. Where the offence is committed by someone aged 18 or over, the offence can currently be tried either way. However, having considered the matter further, whilst we remain keen to avoid unnecessary criminalisation of young people under a YDO, and particularly those under the age of 18, we recognise that certain breaches of a YDO may be serious in nature, for example a breach of a weapons measure. As a result, the amendments to clause 118 make the offence triable either way irrespective of the age of the defendant and provide that the maximum penalty on conviction on indictment in all cases is two years' imprisonment. Importantly, this will also enable the police to make use of existing powers of search and seizure in relation to breaches, powers which will be vital to any investigation associated with a breach. New subsection (5) of clause 118 enables a copy of a YDO to be admissible as evidence in criminal proceedings for breach of an order.

Consultation and independent oversight

Given the important roles that youth justice partners will play in the delivery of the YDO, whilst the YDO does not place any new duties on them directly, we consider it appropriate for these authorities to be consulted on the statutory guidance, the amendments to clause 119 provide for this. In the case of Scotland, such consultation will be through the Scottish Ministers. In addition, new clause "*Reviews of operation of this Chapter*" amends the remit of the Independent Reviewer of Terrorism Legislation to include independent oversight of YDOs.

I attach supplementary delegated powers and ECHR memorandums.

I will write again when we table further amendments to the Bill.



Home Office

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I am copying this letter and enclosures to all members of the Public Bill Committee, Dame Karen Bradley (Chair, Home Affairs Committee) and Lord Alton of Liverpool (Chair, Joint Committee on Human Rights).

Yours sincerely,

Rt Hon Dame Diana Johnson DBE MP
Minister of State for Policing and Crime Prevention

Crime and Policing Bill — Committee Stage

Dame Diana Johnson

[OPC109]

Clause 110, page 128, line 31, leave out “an” and insert “a relevant”

Member's explanatory statement

See the explanatory statement for Amendment [OPC88].

Dame Diana Johnson

[OPC88]

Clause 110, page 129, leave out lines 8 and 9 and insert—

““relevant offence” means an offence which—

- (a) was committed on or after 29 June 2021,
- (b) is punishable on indictment with imprisonment for more than 2 years, and
- (c) is not specified in—
 - (i) Schedule 1A to the Counter-Terrorism Act 2008, or
 - (ii) Schedule A1 to the Sentencing Code;”

Member's explanatory statement

This amendment, Amendment [OPC109] and Amendment [OPC110] replace the concept of an “offence with a terrorist connection” with the concept of a “relevant offence with a terrorist connection” so as to enable the court dealing with an application for a youth diversion order to make its own determination as to whether an offence has a terrorist connection.

Dame Diana Johnson

[OPC110]

Clause 110, page 129, line 14, at end insert—

“(3A) For the purposes of subsection (2)(a)(ii), a relevant offence has a terrorist connection if the offence—

- (a) is, or takes place in the course of, an act of terrorism, or
- (b) is committed for the purposes of terrorism.”

Member's explanatory statement

See the explanatory statement for Amendment [OPC88].

Dame Diana Johnson

[OPC74]

Clause 112, page 130, line 11, leave out “subsection (2) or (3)” and insert “subsections (2) to (3A)”

Member's explanatory statement

This amendment is consequential on Amendment [OPC72].

Dame Diana Johnson

[OPC76]

Clause 112, page 130, line 18, at end insert—

- “(d) the respondent’s presence in, or access to, a specified area or place or an area or place of a specified description;
- (e) the respondent's travel (whether within the United Kingdom, between the United Kingdom and other places or otherwise).”

Member's explanatory statement

This amendment provides that the prohibitions or requirements a youth diversion order may contain include ones relating to the respondent’s presence in or access to particular areas or places, or to the respondent’s travel.

Dame Diana Johnson

[OPC75]

Clause 112, page 130, line 22, leave out “provide information” and insert “answer questions, provide information or produce documents”

Member's explanatory statement

This amendment provides that a youth diversion order may require the respondent to answer questions, provide information or produce documents.

Dame Diana Johnson

[OPC72]

Clause 112, page 130, line 23, at end insert—

- “(d) require the respondent to comply with section (*Notification requirements*) (notification requirements).
- (3A) An order may contain any prohibition that is of a kind that could be imposed by the Secretary of State in relation to an individual by virtue of paragraph 6A of Schedule 1 to the Terrorism Prevention and Investigation Measures Act 2011 (weapons and explosives measures).”

Member's explanatory statement

This amendment provides that a youth diversion order may require the respondent to comply with notification requirements under new clause [OPC77] and may contain prohibitions relating to weapons and explosives.

Dame Diana Johnson

[OPC73]

Clause 112, page 130, line 38, at end insert—

- ““document” means anything in which information of any description is recorded (whether or not in legible form);
- “specified” means specified in the youth diversion order.”

Member's explanatory statement

This amendment is consequential on Amendment [OPC75].

Dame Diana Johnson

[OPC137]

Clause 113, page 131, line 4, leave out from “order” to “consult” in line 5 and insert “, a chief officer of police must, if the respondent will be under the age of 18 when the application is made,”

Member's explanatory statement

This is a drafting change that ensures consistency between the drafting of subsection (1) of clause 113 and subsection (2) of that clause as amended by Amendment [OPC69].

Dame Diana Johnson

[OPC69]

Clause 113, page 131, line 10, leave out from “Scotland” to end of line 15 and insert “must consult—

- “(a) the Lord Advocate,
- (b) the relevant local authority, and
- (c) if the respondent will be under the age of 18 when the application is made, the Principal Reporter.”

Member's explanatory statement

This amendment changes who the chief constable of the Police Service of Scotland must consult before making an application for a youth diversion order or for the variation or discharge of such an order.

Dame Diana Johnson

[OPC84]

Clause 113, page 131, line 16, after “section” insert “—

“Scottish local authority” means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;”

Member's explanatory statement

This amendment is consequential on Amendment [OPC69].

Dame Diana Johnson

[OPC85]

Clause 113, page 131, line 21, at end insert—

““relevant local authority” means—

- (a) the Scottish local authority in whose area it appears to the chief constable that the respondent lives, or
- (b) if it appears to the chief constable that the respondent lives in more than one such area, whichever one or more of the relevant Scottish local authorities that the chief constable considers it appropriate to consult;”

Member's explanatory statement

This amendment is consequential on Amendment [OPC69].

Dame Diana Johnson

[OPC108]

Clause 114, page 131, line 27, leave out "Section 113(1) does" and insert "Subsections (1) and (2)(b) and (c) of section 113 do"

Member's explanatory statement

This amendment disappplies the requirement to consult the relevant local authority and (where the respondent is under 18) the Principal Reporter where an application for a youth diversion order is made without notice in Scotland.

Dame Diana Johnson

[OPC115]

Clause 114, page 131, line 35, leave out "section 113(1)" and insert "subsection (1) or (2)(b) and (c) of section 113 (as the case may be)"

Member's explanatory statement

This amendment is consequential on Amendment [OPC108].

Dame Diana Johnson

[OPC89]

Clause 115, page 132, line 8, leave out subsection (3) and substitute—

- "(3) The only requirements that may be imposed by an interim youth diversion order on the respondent are—
- (a) a requirement of the kind mentioned in section 112(3)(b) (requirements to provide information etc);
 - (b) a requirement to comply with section (*Notification requirements*) (notification requirements)."

Member's explanatory statement

This amendment enables an interim youth diversion order to require the respondent answer questions, provide information or produce documents, or to comply with notification requirements under new clause [OPC77].

Dame Diana Johnson

[OPC94]

Clause 116, page 132, line 33, at end insert—

- "(4A) The court may make provision of a kind mentioned in subsection (4) only if it considers that the provision is necessary for the purpose of protecting members of the public from a risk of terrorism or other serious harm.
- (4B) Subsections (5) and (7) of section 112 apply to additional prohibitions or requirements included on a variation of an order."

Member's explanatory statement

This amendment provides that a court may only vary a youth diversion order to include an additional prohibition or requirement or to extend its duration if it considers it necessary; and that certain provision in clause 112 about the content of orders applies equally to such additional prohibitions or requirements.

Dame Diana Johnson

[OPC113]

Clause 117, page 133, line 11, leave out “this section” and insert “subsection (1)”

Member's explanatory statement

This amendment is consequential on Amendment [OPC114].

Dame Diana Johnson

[OPC114]

Clause 117, page 133, line 13, at end insert—

“(2A) Where an appeal is made to the Crown Court in England and Wales under subsection (1) and on hearing the appeal the Crown Court makes a decision in relation to that matter, any person who was a party to the proceedings before the Crown Court may appeal against that decision to the Court of Appeal in England and Wales.

(2B) An appeal under subsection (2A) may be made only with the permission of the Court of Appeal.”

Member's explanatory statement

This amendment provides that a second appeal in relation to a youth diversion order may be made to the Court of Appeal.

Dame Diana Johnson

[OPC95]

Clause 117, page 133, line 18, at end insert—

“(4) A youth diversion order made on an appeal under this section is to be treated for the purposes of this Chapter (other than this section) as having been made by the court that first made the decision appealed against.

- (5) Rules of court may provide that an appeal from a decision—
- (a) to dismiss an application for a youth diversion order made without notice being given to the respondent, or
 - (b) to refuse to make an interim youth diversion order when adjourning proceedings following such an application,
- may be made without notice being given to the respondent.”

Member's explanatory statement

This amendment enables an application to vary or discharge a youth diversion order made on appeal to be made to the court whose decision was appealed against (instead of the appeal court); and for Rules of Court to make provision about appeals against decisions made without notice to the Respondent.

Dame Diana Johnson

[OPC65]

Clause 118, page 133, line 22, at end insert—

- “(1A) Where a youth diversion order requires a person to provide information or produce a document, it is an offence for the person, in purported compliance with that requirement, to provide any information or produce any document which the person knows to be false.
- (1B) Where a youth diversion order requires a person to comply with section (*Notification requirements*), it is an offence for the person, in purported compliance with that section, to notify to the police any information which the person knows to be false.”

Member's explanatory statement

This amendment makes it an offence for a person to knowingly provide false information, produce a false document or notify false information in purported compliance with notification requirements imposed under a youth diversion order.

Dame Diana Johnson

[OPC66]

Clause 118, page 133, line 23, leave out subsection (2)

Member's explanatory statement

This amendment is consequential on [OPC63].

Dame Diana Johnson

[OPC63]

Clause 118, page 133, line 33, leave out “aged 18 or over”

Member's explanatory statement

This amendment makes offences under clause 118 (breach of youth diversion order) triable either way whatever the age of the respondent.

Dame Diana Johnson

[OPC64]

Clause 118, page 134, line 8, at end insert—

- “(5) In proceedings for an offence under this section, a copy of the original youth diversion order, certified by the proper officer of the court that made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those matters is admissible in those proceedings.”

Member's explanatory statement

This amendment enables a copy of a youth diversion order to be admissible as evidence in criminal proceedings for breach of the order.

Dame Diana Johnson

[OPC96]

Clause 119, page 134, line 16, at end insert—

- “(za) the Youth Justice Board for England and Wales;
- (zb) the Scottish Ministers;
- (zc) the Youth Justice Agency in Northern Ireland;”

Member's explanatory statement

This amendment adds to the list of persons the Secretary of State must consult before issuing or revising guidance to chief officers of police about youth diversion orders.

Dame Diana Johnson

[OPC99]

Clause 121, page 135, line 17, at end insert—

- “(2) Section 127 of the Magistrates’ Courts Act 1980 (time limit for complaints etc) does not apply to a complaint under this Chapter.”

Member's explanatory statement

This amendment disapplies the time limit that would otherwise prevent an application for a youth diversion order being made in relation to matters arising more than six months prior to the making of the application.

Dame Diana Johnson

[OPC112]

Clause 121, page 135, line 17, at end insert—

- “(3) In Schedule 1 to the Courts Reform (Scotland) Act 2014 (asp 17) (civil proceedings etc in which summary sheriff has competence), after paragraph 12 insert—

“*Youth diversion orders*

- 13 Proceedings for or in relation to a youth diversion order under section 110 of the Crime and Policing Act 2025.””

Member's explanatory statement

This amendment enables proceedings in Scotland for or in relation to a youth diversion order to be heard by a summary sheriff.

Dame Diana Johnson

[OPC100]

Clause 132, page 143, line 20, at end insert—

- “(4A) This section does not apply to regulations under section (*Electronic monitoring of compliance with order: England and Wales*)(3).”

Member's explanatory statement

This amendment is consequential on new clause [OPC79].

To move the following Clause—

“Notification requirements

- (1) This section applies where a youth diversion order requires the respondent to comply with this section.
- (2) Before the end of the period of three days beginning with the day on which a youth diversion order requiring the respondent to comply with this section is first served, the respondent must notify to the police—
 - (a) the respondent's name and, where the respondent uses one or more other names, each of those names,
 - (b) the respondent's home address, and
 - (c) the name and address of any educational establishment the respondent normally attends.
- (3) If, while the respondent is required to comply with this section, the respondent—
 - (a) uses a name which has not been notified under the order,
 - (b) changes home address, or
 - (c) begins to attend an educational establishment the name and address of which have not been notified under the order,the respondent must notify, to the police, the new name, the new home address or the name and address of the new educational establishment.
- (4) A notification under subsection (3) must be given before the end of the period of three days beginning with the day on which the respondent uses the name, changes home address or first attends the educational establishment.
- (5) A notification under this section is given by—
 - (a) attending at a police station in the police area in which the home address, or the court which made the order, is situated, and
 - (b) giving an oral notification to a constable, or to a person authorised for the purpose by the officer in charge of the station.
- (6) A notification under this section must be acknowledged in writing.
- (7) In this section “home address” means—
 - (a) the address of the respondent’s sole or main residence in the United Kingdom, or
 - (b) where the respondent has no such residence, the address or location of a place in the United Kingdom where the respondent can regularly be found and, if there is more than one such place, such one of those places as the respondent may select.
- (8) In determining the period of three days mentioned in subsection (2) or (4), no account is to be taken of any time when the respondent is—
 - (a) in police detention within the meaning of the Police and Criminal Evidence Act 1984 (see section 118(2) of that Act);

- (b) remanded in or committed to custody by an order of a court or kept in service custody,
- (c) serving a sentence of imprisonment or a term of service detention,
- (d) detained in a hospital, or
- (e) outside the United Kingdom.”

Member's explanatory statement

This new clause enables a youth diversion order to require the respondent to notify to the police their name and address and the name and address of any educational establishment they normally attend.

Dame Diana Johnson

[OPC79]

To move the following Clause—

“Electronic monitoring of compliance with order: England and Wales

- (1) A youth diversion order made by a court in England and Wales may impose on the respondent a requirement (an “electronic monitoring requirement”) to submit to electronic monitoring of the respondent’s compliance with prohibitions or requirements imposed by the order. This is subject to section (*Conditions for imposing electronic monitoring requirement: England and Wales*).
- (2) A youth diversion order that includes an electronic monitoring requirement must specify the person who is to be responsible for the monitoring.
- (3) The person specified under subsection (2) (“the responsible person”) must be of a description specified in regulations made by the Secretary of State by statutory instrument.
- (4) Where a youth diversion order imposes an electronic monitoring requirement, the respondent must (among other things)—
 - (a) submit, as required from time to time by the responsible person, to—
 - (i) being fitted with, or the installation of, any necessary apparatus, and
 - (ii) the inspection or repair of any apparatus fitted or installed for the purposes of the monitoring;
 - (b) not interfere with, or with the working of, any apparatus fitted or installed for the purposes of the monitoring;
 - (c) take any steps required by the responsible person for the purpose of keeping in working order any apparatus fitted or installed for the purposes of the monitoring.

These obligations have effect as requirements of the order.”

Member's explanatory statement

This new clause enables a youth diversion order to require the respondent to submit to electronic monitoring of their compliance with the prohibitions or requirements of the order (if the conditions set out in new clause [OPC80]) are met.

To move the following Clause—

“Conditions for imposing electronic monitoring requirement: England and Wales

- (1) This section applies for the purpose of determining whether a court in England and Wales may impose an electronic monitoring requirement under section (*Electronic monitoring of compliance with order: England and Wales*).
- (2) An electronic monitoring requirement may not be imposed in the respondent’s absence.
- (3) If there is a person (other than the respondent) without whose co-operation it would be impracticable to secure the monitoring in question, the requirement may not be imposed without that person’s consent.
- (4) A court may impose the requirement in relation to a relevant police area only if—
 - (a) the Secretary of State has given notification that electronic monitoring arrangements are available in the area, and
 - (b) it is satisfied that the necessary provision can be made under the arrangements currently available.
- (5) For this purpose “relevant police area” means—
 - (a) in any case, the police area in England and Wales in which it appears to the court that the respondent resides or will reside, or
 - (b) in a case where it is proposed to include in the order—
 - (i) a requirement that the respondent remains, for specified periods, at a specified place in England and Wales, or
 - (ii) provision prohibiting the respondent from entering a specified place or area in England and Wales,the police area in which the place or area proposed to be specified is situated.
- (6) In subsection (5) “specified” means specified in the youth diversion order.”

Member's explanatory statement

This new clause sets out the conditions for imposing an electronic monitoring requirement under new clause [OPC79].

To move the following Clause—

“Data from electronic monitoring in England and Wales: code of practice

The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of electronic monitoring of persons under electronic monitoring requirements (within the meaning

of section (*Electronic monitoring of compliance with order: England and Wales*)) imposed by youth diversion orders in England and Wales.”

Member's explanatory statement

This new clause requires the Secretary of State to issue a code of practice relating to the processing of data gathered under electronic monitoring requirements imposed under new clause [OPC79].

Dame Diana Johnson

[OPC82]

To move the following Clause—

“Reviews of operation of this Chapter

In the Counter-Terrorism and Security Act 2015, in section 44(2) (provisions the operation of which the person appointed under section 36(1) of the Terrorism Act 2006 is also responsible for reviewing), after paragraph (e) insert—

“(f) Chapter 1 of Part 14 of the Crime and Policing Act 2025.””

Member's explanatory statement

This amendment provides for the Independent Reviewer of Terrorism Legislation to report on the operation of Chapter 1 of Part 14 of the Bill (youth diversion orders).

CRIME AND POLICING BILL

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

The Government has tabled further amendments to the Crime and Policing Bill for Commons Committee stage. These amendments introduce new delegated powers. This supplementary memorandum explains why the new powers have been taken and the justification for the procedure selected.

Youth diversion orders:

- (i) New clause “*Electronic monitoring of compliance with order: England and Wales*” (3): Power to specify description of “responsible person”
- (ii) New clause “*Data from electronic monitoring in England and Wales: code of practice*”: Duty to issue code of practice relating to data from electronic monitoring

Power conferred on:

Secretary of State

Power exercisable by:

- (i) *Regulations made by statutory instrument*
- (ii) *Statutory guidance*

Parliamentary procedure:

- (i) *None*
- (ii) *None*

Context and purpose

1. Chapter 1 of Part 14 of the Bill provides for Youth Diversion Orders, a new counter-terrorism risk management tool specifically designed for young people under the age of 21. Youth Diversion Orders (“YDOs”) will be made by the courts on application by the police and include prohibitions and requirements designed to divert the person from further involvement in the criminal justice system, enabling the police to intervene earlier to prevent the person subject to an order engaging in terrorism and to address any underlying causes of their behaviour. Breach of an order will be a criminal offence (see clause 118).
2. New clause “*Electronic monitoring of compliance with order: England and Wales*” provides that amongst the requirements that may be attached to a YDO in England and Wales is an electronic monitoring requirement. An electronic monitoring requirement may be imposed to support the monitoring of an individual’s compliance with other requirements of the order (for example, where an exclusion/inclusion zone or a curfew are imposed). Electronic monitoring is undertaken using an electronic tag usually fitted to a subject’s ankle.
3. The tag worn by the subject transmits data to a monitoring centre where it is processed and stored. The monitoring centre, operated by a “responsible person”, reviews this data to see whether an individual being electronically monitored is complying with the conditions of the YDO. Where a subject has failed to comply,

the responsible person provides information to the relevant authority, in this case the police, responsible for the enforcement of the order.

4. The new clause sets out further provision about electronic monitoring requirements. Subsection (2) provides that a YDO which includes an electronic monitoring requirement must specify the person who is responsible for the monitoring ("the responsible person"). Subsection (3) provides that the responsible person must be of a description specified in regulations made by the Secretary of State. Similar enabling powers are contained in, for example, section 3AC(2) of the Bail Act 1976, section 215(3) of the Criminal Justice Act 2003 and section 37(7) of the Domestic Abuse Act 2021. The relevant statutory instrument made under the first two of those powers is the Criminal Justice (Electronic Monitoring) (Responsible Person) Order 2017 (SI 2017/235).
5. New clause "*Data from electronic monitoring in England and Wales: code of practice*" requires the Secretary of State to issue a code of practice on the processing of data gathered in the course of an electronic monitoring requirement of a YDO.
6. The processing of such data will be subject to the requirements in the UK General Data Protection Regulation and the Data Protection Act 2018. The code of practice issued under clause 124 is intended to set out the appropriate tests and safeguards for the processing of such data, in order to assist with compliance with the data protection legislation. For example, the Government envisages that the code will set out the length of time for which data may be retained and the circumstances in which it may be permissible to share data. It is intended that the code will cover the storage, retention and sharing of personal data gathered under a requirement that is imposed for the purpose of monitoring compliance with another requirement.
7. Similar provision for a code of practice in respect of the processing of data from electronic monitoring is included in section 215A of the Criminal Justice Act 2003 (as inserted by the Crime and Courts Act 2013). The code is available [here](#). Section 51 of the Domestic Abuse Act 2021 also makes similar provision in relation to Domestic Abuse Prevention Orders.

Justification for taking the power

8. Regulations made under subsection (3) of new clause "*Electronic monitoring of compliance with order: England and Wales*" will provide a description of the person with whom the Secretary of State has made arrangements for providing the electronic monitoring services for the purposes of the YDO regime. Providing a description of the responsible person is properly an administrative procedure. For that reason, the designation of the responsible person is considered an appropriate matter for secondary legislation.
9. The Government considers that a code of practice is the most appropriate vehicle to set out expectations and broad responsibilities in relation to the processing of data gathered under the electronic monitoring requirement. There is a vast range of statutory guidance, such as this, issued each year and it is important that guidance can be updated quickly to keep pace with operational good practice.

Justification for the procedure

10. By virtue of new subsection (4A) of clause 132, regulations made under new clause "*Electronic monitoring of compliance with order: England and Wales*" are not subject to any parliamentary procedure. The primary purpose of these regulations is simply to put into the public domain the name of one or more persons contracted to provide electronic monitoring services for the purposes of YDOs; as indicated above, the selection of the contractor(s) is properly an administrative matter for the executive. Given this, no form of parliamentary scrutiny is considered necessary. This mirrors the approach with the analogous delegated powers in section 3AC(2) of the Bail Act 1976, section 215(3) of the Criminal Justice Act 2003 and section 37(7) of the Domestic Abuse Act 2021.
11. As regards the code of practice relating to data from electronic monitoring, given the likely content and nature of the code, and in particular the fact that it will not define or create new legal responsibilities and that the processing of data must be in accordance with the requirements of data protection legislation, the Government does not consider it is necessary for the code to be subject to any parliamentary procedure. This approach is consistent with the analogous code provided for in section 215A of the Criminal Justice Act 2003 and section 51 of the Domestic Abuse Act 2021.

Home Office
22 April 2025

CRIME AND POLICING BILL
EUROPEAN CONVENTION ON HUMAN RIGHTS
Supplementary Memorandum by the Home Office

Introduction

1. The Government published a memorandum addressing issues under the European Convention on Human Rights (“ECHR”) on introduction of the Crime and Policing Bill (“the Bill”) in the House of Commons on 25 February 2025¹.
2. This supplementary memorandum addresses the issues under the ECHR from Government amendments to the Youth Diversion Orders (“YDO”) provisions (contained in Chapter 1 of Part 14 of the Bill) tabled on 22 April for Commons Committee stage. Specifically, the strengthening of the operation of YDOs by giving courts an express power to impose electronic monitoring and introducing notification requirements.
3. This memorandum has been prepared by the Home Office.

New YDO Clauses on Electronic Monitoring & Notification Requirements

4. New clauses “*Electronic monitoring of compliance with order: England and Wales*”, “*Conditions for imposing electronic monitoring requirement: England and Wales*” and “*Data from electronic monitoring in England and Wales: code of practice*” strengthen the operation of YDOs, by:
 - giving courts an express power to impose electronic monitoring.
 - introducing notification requirements and a criminal offence specifically linked to breach of the notification requirement.
5. The measures engage Articles 5 and 8 ECHR but are assessed to be compatible with the rights protected under those Articles.

New clauses “*Electronic monitoring of compliance with order: England and Wales*” and “*Conditions for imposing electronic monitoring requirement: England and Wales*” deal with the imposition of electronic monitoring on individuals subject to a YDO.

Article 8

6. The physical wearing of an electronic monitoring tag and the collection of data of an individual’s whereabouts will interfere with the Article 8 rights of the individual.
7. The justification for any interference with Article 8 is as follows:
 - a) *In accordance with the law*: The legislation is clear and precise and accessible as envisaged by *Malone v UK*².

¹ [ECHRMemo.pdf](#)

² [1985] 7 EHRR 14

- b) *Pursuing a legitimate aim*: Electronic monitoring will improve the effectiveness of YDOs which are intended to disrupt individuals' involvement in terrorism and divert them from the wider criminal justice system. It will enable law enforcement authorities to monitor and enforce compliance with YDOs more effectively. Any processing of personal data, gathered in the course of electronic monitoring, will be for these legitimate aims, in the interests of national security and public safety.
- c) *Proportionate*: An independent court will be responsible for imposing the requirement and has the discretion to decide whether it is necessary to do so to protect the public in each case. The court will be bound to consider each application on a case-by-case basis. The court will consider factors including the risk the individual poses to the public, the nature of the crimes they are considered to be at risk of being involved with or have been convicted of, the individual's personal circumstances (for example, religion, education, employment), and any other relevant circumstances. It must act compatibly with convention rights when deciding whether to impose the electronic monitoring condition or not (section 6 of the Human Rights Act 1998). Any imposition of electronic monitoring can be discharged or varied by the court and would be subject to the review of the appellate courts (if appealed), which provides further procedural safeguards. The Secretary of State will be required to publish a Code of Practice relating to the processing of data gathered in the course of electronic monitoring, setting out the expectations, safeguards and broad responsibilities for the collection, retention and sharing of information gathered on such orders. Police forces who hold the data will also be required to process the data in accordance with the Data Protection Act 1998.

New clause "Notification requirements" deals with the imposition of notification requirements for YDO subjects.

8. An individual subject to a YDO may be required to notify the police of their name, address, and educational establishment and any change to these.

Article 8

9. The notification requirements engage Article 8 as they interfere with a person's right to privacy by requiring the individual to notify the police of certain personal information including their name, address and educational establishment. The more personal information a person is required to provide to the police, the greater the interference with a person's right to their private and family life under Article 8.
10. The notification condition is not mandatory for orders. The Court will only impose it where it considers it necessary to protect the public, based on the individual facts of the case. In making that determination, the Court must act compatibly with convention rights (section 6 of the HRA 1998).
11. The justification for any interference with Article 8 rights is as follows:

- a) *In accordance with the law*: The measure is drafted in clear and precise terms which provide that including notification requirements is an option available to the court when imposing a YDO where the court considers it appropriate in all the circumstances, including that it must be necessary for protecting the public.
- b) *Pursues a legitimate aim*: This measure pursues the legitimate aim of protecting national security and public safety. Without the notification requirements it might be possible for an individual to evade the monitoring and enforcing of compliance with their YDO by the police, thus undermining the aim of the YDO, namely, to reduce terrorism risk and protect the public.
- c) *Proportionate*: Suitable safeguards are in place to ensure proportionality of any interference. The subject has the right to apply to vary or discharge a YDO. The Government considers it proportionate to require information on name, address and (where applicable) educational establishment as the minimum necessary in cases in which notification requirements are appropriate. This is a narrow data set which is not unduly intrusive and is necessary to enable effective monitoring of the individual by the police. The court may, however, impose additional notification conditions on the individual (over and above this core data set) but this is also subject to where it is considered necessary in the circumstances and to protect the public. Proportionality is thus ensured by the requirement for measures to be necessary to protect the public, and the fact the Court must act compatibly with convention rights (section 6 of HRA 1998). Additional safeguards are provided by the ability of the subject of the order to appeal against the making or terms of the order or to seek variation or discharge of the order.

12. Police forces who hold the data will also be required to process the data in accordance with the Data Protection Act 2018.

Article 5

- 13. Article 5 is also engaged as breach of a YDO, and the notification of information known to be false are criminal offences which can result in the arrest and detention of an individual.
- 14. The Government is satisfied the penalties are proportionate to the nature and severity of the offending. The penalty and power of arrest are in accordance with a procedure prescribed by law and fall within the permissible grounds in Article 5(1), namely: the lawful detention of a person after conviction (Article 5(1)(a)); the lawful arrest or detention of a person for non-compliance with the lawful order of a court (Article 5(1)(b)); and the lawful arrest or detention of a person effected for the purpose of bringing him or her before the competent legal authority on reasonable suspicion of having committed an offence (Article 5(1)(c)). The protections provided for by Article 5(3) in respect of arrest, and any subsequent detention, are met by the ordinary safeguards in the criminal justice system and an offender subject to the order is able to appeal against conviction and sentence.