



# Joint Committee on Human Rights

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From Dr Hywel Francis MP, Chair

Rt Hon Chris Grayling MP  
 Lord Chancellor and Secretary of State for Justice  
 Ministry of Justice  
 102 Petty France  
 London  
 SW1H 9AJ

*Dear Chris,*

19 March 2014

## ***Criminal Justice and Courts Bill Parts 1, 3 and 4***

Further to my letter dated 12 March concerning Part 2 of the Criminal Justice and Courts Bill, I am now writing in connection with Parts 1, 3 and 4 of the Bill which my Committee is scrutinising for compatibility with the requirements of human rights law.

### **Life sentences for terrorism-related offences (clause 1)**

**Q1: What evidence exists to demonstrate that the current sentencing powers are inadequate in relation to the terrorism-related offences for which the Bill increases the maximum sentence to life imprisonment?**

**Q2: In what circumstances will a court be “compelled” to make a whole life order in relation to such offences, as envisaged in para. 10 of the Government’s ECHR Memorandum?**

### **Electronic monitoring following release on licence (clause 6)**

**Q3: In view of the seriousness of the interference with the right to respect for private life involved in compulsory electronic monitoring, what is the justification for conferring a broad power on the Secretary of State to make such provision by order, as opposed to making detailed statutory provision?**

**Q4: Will Parliament be provided, during the passage of the Bill, with a draft of the Code of Practice provided for under new s. 62B of the Criminal Justice and Court Services Act 2000, relating to the processing of data gathered in the course of monitoring persons under electronic monitoring conditions imposed under the new power?**

### **Extreme pornography (clause 16)**

The Ministry of Justice's Factsheet on clause 16 of the Bill says that "the Government believes there is some evidence that viewing these images may have an effect on young peoples' attitudes to sexual and violent behaviour, and that some men can exhibit heightened aggression towards women after exposure to violent pornography."

**Q5: In addition to the evidence cited in the Factsheet, is the Government aware of any academic research or other evidence demonstrating both the causal connection suggested and the wider effect of such pornography on cultural attitudes towards sexual violence? If so, please can the Government set out this evidence in greater detail.**

### **Trial by single magistrate on the papers (clause 26)**

**Q6: Please explain, with reference to relevant Strasbourg case-law, why in the Government's view a failure to respond to a written charge and a single justice procedure notice amounts to an "unequivocal" waiver of the right to a public hearing of a criminal charge in Article 6(1) ECHR.**

**Q7: In approximately how many cases per year does the Government anticipate the new procedure of trial by a single justice on the papers will be used where the accused has not responded to the charge?**

### **Criminal courts charge (clause 29)**

**Q8: Is the proposed criminal courts charge intended to be a penalty imposed on those who have been convicted of a criminal offence, in addition to the sentence they receive?**

**Q9: Please provide further details of the Government's intention that the charge will be written off if the individual does not re-offend.**

**Q10: Please explain further the Government's view in para. 74 of its ECHR memorandum that the criminal courts charge does not raise "access to court" issues.**

- **Is it the Government's intention that the proposed criminal courts charge will incentivise guilty pleas and deter criminal appeals?**

**Q11: How much money does the Government expect the criminal courts charge to raise per annum, and what proportion of the charges imposed does the Government expect to be able to collect in practice?**

### **Contempt of court (clause 38)**

**Q12: Please provide a more detailed explanation of the safeguards which will ensure that the exercise of the Attorney General's proposed power in new s.**

**4A(3) Contempt of Court Act 1981, to remove a person's defence to the strict liability rule, is compatible with the right to freedom of expression in Article 10 ECHR.**

- **Will a draft copy of the proposed regulations making provision for the Attorney General's notice be made available during the passage of the Bill to enable Parliament to scrutinise fully the implications for freedom of expression?**

### **Judicial review**

The Committee has completed its inquiry into the implications for access to justice of the Government's proposed reforms to judicial review, and will be publishing its Report in April. In the meantime, I would be grateful for your response to the following questions about clauses 53 and 54 of the Bill:

**Q13: What does the Government envisage will amount to "exceptional circumstances" (in clause 53(5)) making it inappropriate for the court to order an intervener in judicial review proceedings to pay the costs incurred by another party as a result of the intervention?**

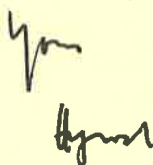
**Q14: Is it the Government's intention that interveners should be liable to pay the costs incurred by other parties as a result of the intervener's involvement in the proceedings, regardless of the outcome of the proceedings and the intervener's contribution to that outcome?**

- **If not, will the Government consider making this explicit on the face of the Bill?**

**Q15: What is the justification for restricting the power of the courts to make a costs capping order to cases in which permission to apply for judicial review has been granted?**

- **Is such a restriction compatible with the right of practical and effective access to court?**

It would be helpful if we could receive your reply by 2 April 2014. I would also be grateful if your officials could provide the Committee secretariat with a copy of your response in Word format, to aid publication. I look forward to hearing from you.



**Dr Hywel Francis  
Chair**