



## Joint Committee on Human Rights

House of Commons · 7 Millbank · London · SW1P 3JA  
Tel 020 7219 2797 Fax 020 7219 8393 Email [JCHR@parliament.uk](mailto:JCHR@parliament.uk) Website [www.parliament.uk](http://www.parliament.uk)



From Dr Hywel Francis MP, Chair

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

Wednesday 16 July 2014

*Dear Chris,*

### ***Criminal Justice and Courts Bill***

The Joint Committee on Human Rights is continuing its scrutiny of the human rights implications of the Criminal Justice and Courts Bill. The Committee is grateful to your Department for providing a supplementary memorandum, which summarises the Government's analysis of a number of provisions that have been added to the Bill since its introduction in light of the requirements of human rights law. I would be grateful if you could answer the following questions which will help the Committee with its work.

#### **Mandatory sentencing for possession of a knife (clause 14)**

Q1. Please provide the Government's assessment of the potential human rights implications of the imposition of mandatory custodial sentences for anyone aged 16 or over for a second (or further) offence of possessing an offensive weapon or bladed article in public or on school premises.

- Please also provide the Government's assessment of the potential impact of the proposal on young people and people from black and minority ethnic communities.
- Please provide the Government's reasons for its view that the proposed mandatory Detention and Training Order for those aged 16 or 17 is compatible with the obligation under Article 37 of the UN Convention on the Rights of the Child to ensure that detention of children and young people is a measure of last resort.

Striking out personal injury claims involving fundamental dishonesty (clause 15)

Q2. Why is the court's inherent jurisdiction to strike out a claim for abuse of process not sufficient to deal with the problem of dishonest claims?

Q3. In view of the Bill's recognition in clause 45(7) of the need to prevent double punishment, what is the justification for applying a civil standard of proof (on the balance of probabilities) to the question of whether the claimant has been fundamentally dishonest, rather than the criminal standard of proof (beyond reasonable doubt)?

Revenge pornography

Q4. The Committee notes the Government's commitment to giving further consideration to whether there is a need for an express offence concerning 'revenge pornography'. Should the Government bring forward any legislative proposal in this regard, whether in this Bill or another, I would request that it provides the Committee with a human rights memorandum in the usual way. In particular, I would be grateful if any such a memorandum would provide information about:

- the Government's assessment of the need for the creation of any specific offence relating to revenge pornography;
- whether there have been any convictions to date for publication of revenge pornography images under existing criminal offences;
- any current police and Crown Prosecution Service guidance on how to deal with revenge pornography cases; and
- any work by the Government to engage with internet service providers and social media organisations to ensure that their policies effectively address instances of revenge pornography.

It would be helpful if we could receive your reply by 31 July 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