



Joint Committee on Human Rights

Committee Office · House of Commons · London · SW1A 0AA

Tel 020 7219 2797 Email JCHR@parliament.uk Website www.parliament.uk



Baroness Williams of Trafford
Minister of State
House of Lords
London
SW1A 0AA

20 February 2019

Dear Susan

Offensive Weapons Bill

The Joint Committee on Human Rights has considered the Government's amendments to the Offensive Weapons Bill. We understand the Government's desire to tackle knife crime and, in particular, to ensure that children are protected from harm and are not drawn into violence. However, we are concerned that the proposed amendments may criminalise children who have no previous criminal convictions, not for carrying a knife (which is already against the law), but for breaching requirements which could be imposed in ways which prevent them conducting a normal life.

Children aged 12 and over, without any conviction, could be subject to an Order following an application by the police to the courts, based on the balance of probabilities, rather than the criminal standard of proof. The requirements attached to an Order are not expressly limited and could be particularly invasive and interfere with the right to private and family life, the right to freedom of religion, the right to freedom of expression, the right to freedom of association, and the right to peaceful enjoyment of property (Articles 8, 9, 10, and 11, and Article 1 Protocol 1). Breach of an Order is a criminal offence; punishment could be up to 2 years in prison.

We note that gang injunctions can only be applied to persons aged 14 and over, and that breach of a gang injunction is a civil contempt of court rather than a criminal offence. For those who are under 18, breach is dealt with by way of a separate statutory scheme where the maximum length of a detention order is 3 months. We would be grateful if you could explain why a similar regime has not been proposed to tackle knife crime.

Although the Government's amendments provide that the courts must consider the Order to be "necessary", the Committee is concerned that wide-ranging, unlimited prohibitions and requirements, based on suspicion only, could be applied disproportionately in ways which are not compliant with human rights law. Children without criminal records could receive a record (with all that goes with it).

The Committee accordingly invites the Government to give further consideration to balancing the need to protect children and the need to respect their rights, and to ensuring that criminal penalties flow from criminal behaviour only. The Committee notes that the Government intends to issue guidance relating to the exercise of KCPOs. Such guidance may be particularly important in ensuring that the implementation of the proposed new regime is proportionate. We would therefore be grateful for early sight of this guidance so that this can be scrutinised when the Bill returns to the Commons.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rally', written in a cursive style.

Baroness Hamwee
(in the Chair of the Committee 20 February 2019)