



HOUSE OF LORDS

Select Committee on the Constitution

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7th Report of Session 2022–23

# Public Order Bill

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### *Select Committee on the Constitution*

The Constitution Committee is appointed by the House of Lords in each session “to examine the constitutional implications of public bills coming before the House and to keep under review the operation of the constitution and constitutional aspects of devolution.”

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### *Committee staff*

The current staff of the committee are John Turner (Clerk), Rachel Borrell (Policy Analyst) and Jackie Lam (Committee Operations Officer). Professor Stephen Tierney and Professor Alison Young are the legal advisers to the Committee.

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# Public Order Bill

## Introduction

1. The Public Order Bill was introduced in the House of Commons on 11 May 2022 and brought to the House of Lords on 19 October 2022. Second reading took place on 1 November 2022 and committee stage is scheduled to begin on 16 November 2022.
2. The purpose of the Bill is to “strengthen police powers to tackle dangerous and highly disruptive tactics employed by a minority of protestors.”<sup>1</sup> In the Explanatory Notes the Government explains that it considers the Bill necessary because existing legislation for managing protests—principally the Public Order Act 1986—is predominantly focussed on limiting “behaviours at protests which are violent or distressing to the public”.<sup>2</sup> For example, section 4A of the Public Order Act 1986 states the following:

“(1) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he—

  - (a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or
  - (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

thereby causing that or another person harassment, alarm or distress.”<sup>3</sup>
3. In the Government’s view, recent changes in tactics by certain protestors are not fully covered by the Public Order Act 1986, and measures in the Police, Crime, Sentencing and Courts Act 2022 do not fully address the situation.<sup>4</sup>
4. Most of the Bill replicates amendments to the Police, Crime, Sentencing and Courts Bill, originally tabled by the Government at report stage in the House of Lords. Those amendments were rejected by the House of Lords<sup>5</sup> due to concerns about their late tabling and their potential implications for civil liberties.<sup>6</sup>
5. The Bill engages several rights protected by the European Convention on Human Rights (ECHR): the right to freedom of thought, conscience and religion (Article 9), the right to freedom of expression (Article 10) and the right to freedom of assembly and association (Article 11). These rights are all subject to limitation if prescribed by law and necessary in a democratic society in the pursuit of several interests, such as public safety, public order, the prevention of disorder or crime and for the protection of the reputation and rights of others.<sup>7</sup> For the full text of these rights and the full circumstances under which each one can be limited, see Appendix 2.

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1 [Explanatory Notes to the Public Order Bill](#), para 1

2 [Explanatory Notes to the Public Order Bill](#), para 6

3 Public Order Act, [section 4A](#)

4 [Explanatory Notes to the Public Order Bill](#), para 7

5 HL Deb, 17 January 2022, cols [1430–1476](#)

6 HL Deb, 17 January 2022, cols [1430–1476](#)

7 [European Convention on Human Rights](#), Articles 9, 10 and 11

6. **The Joint Committee on Human Rights has raised concerns about the Bill’s compliance with the European Convention on Human Rights.<sup>8</sup> We draw the attention of the House to the importance of ensuring that legislation is compliant with the UK’s international law obligations, including the European Convention on Human Rights.**

**Clauses 1 to 8: new offences**

7. Clauses 1 to 8 create a series of new offences, as shown in the table below

**Table 1: Offences in Part 1 of the Bill**

Clause	Offence	Penalty
1	Locking-on	Up to six months imprisonment or unlimited fine or both
2	Being equipped for locking-on	Unlimited fine
3	Causing serious disruption by tunnelling	Up to three years imprisonment or unlimited fine or both
4	Causing serious disruption by being present in a tunnel	Up to three years imprisonment or unlimited fine or both
5	Being equipped for tunnelling	Up to six months imprisonment or unlimited fine or both
6	Obstructing major transport work	Up to six months imprisonment or unlimited fine or both
7 and 8	Committing an act that interferes with the use or operation of key national infrastructure	Up to 12 months imprisonment or unlimited fine or both

Source: *Public Order Bill*, clauses 1–8

8. **We draw the attention of the House to the significant differences in the severity of the penalties applied to the offences created by clauses 1 to 8.**

**Clauses 1, 3 and 4**

9. Each of the offences in these clauses requires intent to cause, or be capable of causing, “serious disruption” to either an organisation or at least two individuals, or a reckless attitude to causing such disruption.<sup>9</sup> For each offence there is a “reasonable excuse” defence.<sup>10</sup> In the case of tunnelling, a “reasonable excuse” includes authorisation to tunnel by those with an interest in the land.<sup>11</sup> These clauses, which create offences potentially attracting

8 Joint Committee on Human Rights, *Legislative Scrutiny: Public Order Bill* (First Report, Session 2022–23, HC 351, HL Paper 16). This report was published before what is now clause 9 was added to the Bill. Clause 9 raises its own issues, discussed below.

9 *Public Order Bill*, clauses 1(1)(b) and (c), 3(1)(b) and (c) and 4(1)(b) and (c)

10 *Public Order Bill*, clauses 1(2), 3(2) and 4(2)

11 *Public Order Bill*, clause 3(3) and 4(3)

severe penalties, rest on whether “serious disruption” has been caused, or is capable of being caused, but “serious disruption” is not defined in the Bill.

10. The Government introduced partial definitions of “serious disruption” in the Police, Crime, Sentencing and Court Act 2022, following recommendations from this Committee and the Delegated Powers and Regulatory Reform Committee. Under that Act a public procession or public assembly may, for example, cause serious disruption where:

“(a) it may result in a significant delay to the delivery of a time-sensitive product to consumers of that product, or

(b) it may result in a prolonged disruption of access to any essential goods or any essential service, including, in particular, access to—

(i) the supply of money, food, water, energy or fuel,

(ii) a system of communication,

(iii) a place of worship,

(iv) a transport facility,

(v) an educational institution, or

(vi) a service relating to health.”<sup>12</sup>

11. **In our view the definitions of “serious disruption” in the Police, Crime, Sentencing and Courts Act 2022 are not tailored to the offences created by the Bill. We recommend that the meaning of “serious disruption”, wherever it is used, should be clarified in the Bill in a proportionate way.**

#### *Clause 7*

12. Clause 7 also includes a “reasonable excuse” defence, which in this case includes acts done wholly or mainly in contemplation or furtherance of a trade dispute.<sup>13</sup> Unlike the clauses above, clause 7 does not require a person to cause “serious disruption”.
13. The “reasonable excuse” defence included in clauses 1, 3, 4 and 7 is not precisely defined. As these clauses include summary offences, this potentially leaves it to magistrates’ courts to determine what might constitute a “reasonable excuse” in any given circumstance. This could lead to disparity in interpretation between different magistrates.
14. **The offences created by clauses 1, 3, 4 and 7 each include a “reasonable excuse” defence without defining what constitutes a “reasonable excuse”. These offences already require intent, which may render redundant the need for a “reasonable excuse” defence. It is constitutionally unsatisfactory to leave to the courts the task of determining what might be a “reasonable excuse” without Parliament indicating what it intends the defence to cover. Including a “reasonable excuse” defence invites argument as to whether certain,**

<sup>12</sup> Police, Crime, Sentencing and Court Act, [section 73](#) and [74](#). A slightly different definition is found in section 79.

<sup>13</sup> [Public Order Bill](#), clause 7(2)

**but not other, political motivations might constitute an excuse. We recommend that unless a precise definition of “reasonable excuse” is provided then the “reasonable excuse” defence be removed from clauses 1, 3, 4 and 7.**

*Clause 6*

15. Clause 6 creates a criminal offence of obstructing major transport works. A person commits the offence if they obstruct an “undertaker” who is setting out the lines of any major transport works; constructing or maintaining them; or taking “any steps that are reasonably necessary for facilitating, or in connection with, the construction or maintenance of any major transport works”; or if they interfere with, move or remove any apparatus which relates to the construction or maintenance of any major transport works.<sup>14</sup> As with other clauses, there is a “reasonable excuse” defence for this offence, which in this case includes acts done wholly or mainly in contemplation or furtherance of a trade dispute<sup>15</sup>—but there is no requirement for the act to be intended to cause disruption or to be reckless as to whether it would do so. This potentially criminalises a wide range of seemingly minor actions which fall outside the Bill’s purpose to “strengthen police powers to tackle dangerous and highly disruptive tactics employed by a minority of protestors.”<sup>16</sup>
16. **e note that unlike clauses 1, 3, 4 and 7 intent or recklessness are not required for an act to constitute an offence under clause 6. In this instance, a “reasonable excuse” defence would have greater force and much more value. We recommend the House seeks clarification from the Government on why intent or recklessness are not required in this case.**

*Clause 9: abortion clinic ‘buffer zones’*

17. Clause 9 was added by a non-government amendment, agreed on a free vote at report stage in the House of Commons. This clause would make it an offence for a person who is within a 150 metre ‘buffer zone’ around any part of an abortion clinic to interfere with any person’s “decision to access, provide, or facilitate the provision of abortion services in that buffer zone.”<sup>17</sup>
18. After the Bill was brought to the House of Lords, the minister, Lord Sharpe of Epsom, made a written statement under section 19(1)(b) of the Human Rights Act 1998, that he was unable, exclusively because of clause 9, to state that the provisions of the Bill are compatible with the European Convention on Human Rights, but the Government “nevertheless wishes to proceed with the Bill”, noting that the House of Lords “will naturally wish to debate and scrutinise this amendment further.”<sup>18</sup> At second reading he added:

“the Government accept the view of the other place that the existing powers are inadequate to deal with the problem—but we cannot accept

14 [Public Order Bill](#), clause 6(1)

15 [Public Order Bill](#), clause 6(2)

16 [Explanatory Notes to the Public Order Bill](#), para 1

17 [Public Order Bill](#), clause 9. “Interferes with” is defined as a person who: (a) seeks to influence (b) persistently, continuously or repeatedly occupies (c) impedes or threatens (d) intimidates or harasses (e) advises or persuades, attempts to advise or persuade, or otherwise expresses opinion (f) informs or attempts to inform about abortion services by any means, including, without limitation, graphic, physical, verbal or written means, or (g) sketches, photographs, records, stores, broadcasts, or transmits images, audio, likenesses or personal data or any person without express consent.

18 Written statement HLWS333, Session 2022–23

Clause 9 in its current form ... I invite interested noble Lords to engage and work with us on this to deliver a workable solution.”<sup>19</sup>

19. In moving the new clause in the House of Commons, Stella Creasy MP suggested that the solution to the Government’s concerns might be that “we should accept this amendment today and seek to further refine how it could work in the other place.”<sup>20</sup>
20. As noted above, the ECHR protects the right to freedom of thought, conscience and religion (Article 9), the right to freedom of expression (Article 10) and the right to freedom of assembly and association (Article 11). Each of these rights is qualified—the state is entitled to restrict the exercise of these rights if restrictions are prescribed by law and necessary in a democratic society in pursuit of several interests, including the protection of health and the protection of the rights, freedom or reputation of others.<sup>21</sup>
21. The restrictions placed on these rights by clause 9 are limited to the 150-metre ‘buffer zone’. They do not affect individuals’ ability to exercise their rights under articles 9, 10 and 11 of the ECHR to oppose abortion outside the ‘buffer zone’.
22. The issue of ‘buffer zones’ around abortion clinics is currently before the Supreme Court in a reference from the Attorney General for Northern Ireland concerning clause 5(2)(a) of the Abortion Services (Safe Access Zones) (Northern Ireland) Bill. Clause 5(2)(a) of that Bill creates a criminal penalty analogous to clause 9 of the Public Order Bill.<sup>22</sup> The Court is being asked to determine whether clause 5(2)(a) of the Northern Ireland Bill is outside the Northern Ireland Assembly’s legislative competence because it disproportionately interferes with rights under articles 9, 10 and 11 of the ECHR.<sup>23</sup>
23. **Pending the judgment of the Supreme Court we offer no view on the compatibility of clause 9 with the ECHR. Nonetheless, we recognise the importance of the issue of introducing measures to protect from intimidation, harassment or other undue interference those who wish to access abortion services and the aim and desire of the House of Commons that such protections should be addressed in this Bill. The House may reach the same view—if it does so we hope it is able to satisfy itself that the clause, with any necessary refinements, is ECHR-compliant.**

#### Clauses 10 to 14: stop and search powers

24. The Bill provides the police with new stop and search powers in respect of items related to specified protest-related offences.<sup>24</sup> Clause 10 amends section 1(8) of the Police and Criminal Evidence Act 1984 (PACE) to bring the new offences in the Bill within the purview of that provision.<sup>25</sup> Police officers are thereby empowered to search individuals if they have “reasonable grounds”

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19 HL Deb, 1 November 2022, [col 204](#)

20 HC Deb, 18 October 2022, [col 604](#)

21 [European Convention on Human Rights](#), articles 9(2), 10(2) and 11(2)

22 Supreme Court, Reference by the Attorney General for Northern Ireland—Abortion Services (Safe Access Zones) (Northern Ireland) Bill, [Case ID 2022/0077](#)

23 The Supreme Court hearings in this case took place on 19 and 20 July 2022. A judgment hand-down date has not yet been announced.

24 [Public Order Bill](#), clauses 10–14

25 [Public Order Bill](#), clause 10

for suspecting that someone has an object used, or intended for use, in a protest-related offence.<sup>26</sup>

25. Clause 11 empowers senior police officers to authorise uniformed officers within a specified locality and time-period to stop and search for objects intended to be used in, or that have been made or adapted for, relevant protest-related offences,<sup>27</sup> or objects in connection with specified protest-related offences that have been committed.<sup>28</sup> While this authorisation is in force a police officer can stop any person or vehicle to conduct these searches whether or not they have grounds for suspecting that the person or vehicle is carrying such an object.<sup>29</sup>
26. Searches can be authorised if the senior police officer reasonably believes it is necessary to prevent the commission of protest-related offences or the carrying of “prohibited objects”.<sup>30</sup> The specified locality must be no greater, and the specified period no longer, than is necessary to prevent such activity.<sup>31</sup> The maximum period is 24 hours but it can be extended for a further 24 hours.<sup>32</sup> Further safeguards concerning the process that must be followed to conduct these searches are in clauses 12 and 13.<sup>33</sup>
27. Clause 14 makes it an offence intentionally to obstruct a constable in the exercise of the constable’s powers under clause 11. On summary conviction, the offence is punishable by imprisonment for up to 51 weeks, a fine of up to £1,000, or both.<sup>34</sup>
28. The powers provided for in clause 11 are precedented. Section 60 of the Criminal Justice and Public Order Act 1994 allows a senior police officer to exercise similar powers if they reasonably believe that serious violence may take place or has taken place in a particular locality, or a dangerous instrument or offensive weapon used in the incident is being carried in that locality.<sup>35</sup> Section 47A of the Terrorism Act 2000 allows for similar powers if a senior police officer reasonably suspects that an act of terrorism will take place and that an authorisation of searches is necessary to prevent such an act.<sup>36</sup>
29. **Powers to stop and search without reasonable suspicion are currently available only where a senior police officer reasonably believes that an act of serious violence or terrorism may take place (or, in the case of serious violence, has taken place) in a particular locality. The Bill**

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26 Protest-related offences include: (i) an offence under section 137 of the Highways Act 1980 (wilful obstruction) involving activity which causes or is capable of causing serious disruption to two or more individuals or to an organisation; (ii) an offence under section 78 of the Police, Crime, Sentencing and Courts Act 2022 (intentionally or recklessly causing public nuisance); (iii) an offence under clause 1 (offence of locking-on); (iv) an offence under clause 3 (offence of causing serious disruption by tunnelling); (v) an offence under clause 4 (offence of causing serious disruption by being present in a tunnel); (vi) an offence under clause 6 (obstruction etc of major transport works); (vii) an offence under clause 7 (interference with use or operation of key national infrastructure). [Public Order Bill](#), clause 10

27 Protest-related offences are those listed in footnote 26. [Public Order Bill](#), clause 11(1)(a)

28 [Public Order Bill](#), clause 11(1), (2) and (3)

29 [Public Order Bill](#), clause 11(6) and (7)

30 [Public Order Bill](#), clause 11(4)

31 [Public Order Bill](#), clause 11(4)(b) and (c)

32 [Public Order Bill](#), clause 11(5)

33 [Public Order Bill](#), clauses 12 and 13.

34 [Public Order Bill](#), clause 14

35 Criminal Justice and Public Order Act 1994, [section 60](#)

36 Terrorism Act 2000, [section 47A](#)

**introduces similar powers to deal, not with violence, but with protest. The penalty for obstructing a constable exercising these powers is significant. *We invite the House to consider whether the extension of these powers to protest-related offences is proportionate, having regard to the fact that an individual officer does not need grounds for suspicion to conduct a search and the effect their use may have on public confidence in the police.***

## **Part 2: Serious Disruption Prevention Orders**

30. Part 2 introduces a new court order: Serious Disruption Prevention Orders (SDPOs). These apply to protestors who are deemed to be causing disruption repeatedly.<sup>37</sup>
31. The scope for granting an SDPO is broad. Clause 19 allows SDPOs to be issued to people upon conviction for a protest-related offence.<sup>38</sup> Clause 20 allows an SDPO to be issued without a conviction if an application is made to a court by a chief police officer.<sup>39</sup>
32. The purpose of an SDPO is to prevent a person from committing a protest-related offence or a protest-related breach of an injunction; or to prevent a person from carrying out activities relating to a protest that result in, or are likely to result in, serious disruption to two or more individuals or to an organisation in England and Wales.<sup>40</sup> SDPOs can also be issued to protect two or more individuals, or an organisation, from the risk of serious disruption arising from a protest-related offence, a protest-related breach of an injunction or activities related to a protest.<sup>41</sup> SDPOs can also be issued to prevent a person causing or contributing to such offences by others.<sup>42</sup>
33. **The purposes for which a Serious Disruption Prevention Order can be issued are broad. They can be issued not only to prevent a person committing a protest-related offence but also to prevent a person from carrying out activities related to a protest. Such a protest need cause, or be likely to cause, serious disruption to only two people. This gives the orders a pre-emptive or preventative role. Furthermore, “protest-related” offence is not adequately defined in this part of the Bill nor, as noted above, is “serious disruption”. This undermines legal certainty. *We recommend that the meaning of “protest-related offence” is clarified more precisely.***
34. Under clause 20 a court must be satisfied, on the balance of probabilities, that on at least two occasions in the previous five years<sup>43</sup> a person has committed a protest-related offence for which he or she was convicted, committed a protest-related breach of an injunction for which the person was found in contempt of court, or has carried out activities related to a protest that resulted in, or were likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales.<sup>44</sup> An SDPO can

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37 [Explanatory Notes to the Public Order Bill](#), para 7

38 [Public Order Bill](#), clause 19

39 [Public Order Bill](#), clause 20

40 [Public Order Bill](#), clauses 19(5)(a) and (b) and 20(4)(a) and (b)

41 [Public Order Bill](#), clauses 19(5)(d) and 20(4)(d)

42 [Public Order Bill](#), clauses 19(5)(c) and 20(4)(c)

43 [Public Order Bill](#), clause 20(3)

44 [Public Order Bill](#), clause 20(2)(a)(i), (ii) or (iii)

also be issued under clause 20 if a court is satisfied that a person has caused or contributed to the commission of the above by another person.<sup>45</sup>

35. Clause 27 creates a criminal offence of non-compliance with an SDPO, punishable by up to six months imprisonment, an unlimited fine, or both.<sup>46</sup>
36. **Clause 20 allows a Serious Disruption Prevention Order to be issued in relation to activities carried out up to five years earlier even if no criminal conviction was involved. A Serious Disruption Prevention Order can be granted using a civil standard of proof—balance of probabilities—rather than the criminal standard of beyond reasonable doubt. Despite this, the breach of a Serious Disruption Prevention Order results in a criminal offence. The fact that the breach of an order attracts a criminal penalty raises a fundamental question as to the proportionality of Serious Disruption Prevention Orders, which can be granted in a wide range of circumstances using a civil standard of proof.**
37. The potential effect of SDPOs is broad. Clauses 19(6) and 20(5) allow a court to issue an order which requires a person to do anything described in the order or prohibits a person from doing anything described in the order.<sup>47</sup> Clause 21 sets out a non-exhaustive list of requirements that may be imposed on a person by a SDPO. This includes requiring the person to present him or herself to a particular person at a particular time, or between particular times, on particular days; to remain at a particular place for particular periods; or to submit to electronic monitoring of the person's compliance with other provisions of the order.<sup>48</sup>
38. An SDPO can last for a fixed period between one week and two years,<sup>49</sup> and is renewable by court order.<sup>50</sup> An electronic monitoring requirement can have effect for up to 12 months<sup>51</sup> and can be renewed by court order for up to 12 months at a time.<sup>52</sup>
39. **We note that Serious Disruption Prevention Orders are broad and can impose heavy restrictions on an individual. Serious Disruption Prevention Orders, including electronic monitoring requirements, can be renewed indefinitely. The House may wish to consider the proportionality of this regime.**

### Delegated powers

40. Clause 23(7) provides the Secretary of State with powers to determine by regulations who is a responsible person for the purposes of overseeing any electronic monitoring requirements attached to an SDPO.<sup>53</sup> These regulations are not subject to any parliamentary procedure. In its Delegated Powers Memorandum the Government says:

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45 [Public Order Bill](#), clause 20(2)(a)(iv) and (v)

46 [Public Order Bill](#), clause 27

47 [Public Order Bill](#), clauses 19(6) and 20(5)

48 [Public Order Bill](#), clause 21(2)

49 [Public Order Bill](#), clause 25(2)

50 [Public Order Bill](#), clause 28

51 [Public Order Bill](#), clause 25(6)

52 [Public Order Bill](#), clause 28(9)

53 [Public Order Bill](#), clause 23(7)

“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 Part 2 of the Bill as indicated above, the selection of the contractor(s) is properly an administrative matter for the executive.”<sup>54</sup>

41. **The nature of significant contracts agreed between the Government and private contractors is a matter of public interest. It is appropriate that this power is subject to regulations which will be in the public domain. Parliament will want to satisfy itself that such contracts are in the public interest and to continue to review any regulations once made to ensure the appropriateness of persons tasked with overseeing any electronic monitoring requirements attached to a Serious Disruption Prevention Order.**
42. Clause 30 empowers the Secretary of State to issue guidance to chief officers of police and other police officers in relation to SDPOs. This may include guidance about the exercise of their functions under part 2 of the Bill and guidance about identifying persons in respect of whom it may be appropriate for applications for SDPOs to be made.<sup>55</sup> Draft guidance must be laid before Parliament and is subject to the negative procedure.<sup>56</sup>
43. In its Delegated Powers Memorandum the Government said:
 

“Although the majority of the precedents relating to statutory guidance for civil prevention order regimes suggest that such guidance should not be subject to any parliamentary procedure, given the extensive parliamentary and public debate about the appropriate balance between the rights of protesters to exercise their freedom of speech and assembly and the rights of other persons and organisations to go about their business without serious disruption, it is the Government’s view that, exceptionally in this instance, the guidance under clause 30 should be subject to the negative procedure.”<sup>57</sup>
44. The Delegated Powers and Regulatory Reform Committee concluded that the clause contained “an extreme example of a power to issue guidance on the exercise of statutory functions” allowing the Secretary of State:
 

“to influence the exercise by the police of functions that could prove to be highly controversial—including identifying persons in respect of whom the courts may make serious disruption prevention orders under which people who have not been convicted of any offence—and are not considered to be at risk of offending—may nonetheless be made subject to restrictions on liberty backed by criminal penalties.”
45. It recommended that the power be subject to the affirmative procedure.<sup>58</sup>
46. **We welcome the inclusion of a parliamentary procedure for the draft guidance under clause 30. We note that in exercising this power the Secretary of State potentially guides the police about identifying**

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54 Public Order Bill, [Delegated Powers Memorandum](#), para 19

55 [Public Order Bill](#), clause 30(1) and (2)

56 [Public Order Bill](#), clause 31

57 Public Order Bill, [Delegated Powers Memorandum](#), para 24

58 Delegated Powers and Regulatory Reform Committee, [Public Order Bill](#), 17th Report of Session 2022–23, HL Paper 91, paras 22 and 23

**individuals who may be appropriate for an application for a Serious Disruption Prevention Order. *Given the significant implications for civil liberties we recommend the draft guidance should be made subject to the affirmative procedure.***

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Baroness Drake (Chair)  
 Lord Falconer of Thoroton  
 Lord Faulks  
 Baroness Fookes  
 Lord Hennessy of Nympsfield  
 Lord Hope of Craighead  
 Lord Howard of Lympne  
 Lord Howarth of Newport  
 Lord Howell of Guildford  
 Lord Robertson of Port Ellen  
 Lord Sherbourne of Didsbury  
 Baroness Suttie  
 Lord Thomas of Gresford

### Declarations of interest

Baroness Drake (Chair)  
*No interests declared*  
 Lord Falconer of Thoroton  
*No interests declared*  
 Lord Faulks  
*No interests declared*  
 Baroness Fookes  
*No interests declared*  
 Lord Hennessy of Nympsfield  
*No interests declared*  
 Lord Hope of Craighead  
*No interests declared*  
 Lord Howard of Lympne  
*No interests declared*  
 Lord Howarth of Newport  
*No interests declared*  
 Lord Howell of Guildford  
*No interests declared*  
 Lord Robertson of Port Ellen  
*No interests declared*  
 Lord Sherbourne of Didsbury  
*No interests declared*  
 Baroness Suttie  
*No interests declared*  
 Lord Thomas of Gresford  
*No interests declared*

A full list of members' interests can be found in the Register of Lords' Interests: <https://members.parliament.uk/members/lords/interests/register-of-lords-interests>

Professor Stephen Tierney, University of Edinburgh, and Professor Alison Young, University of Cambridge, acted as legal advisers to the Committee. They declared no relevant interests.

## **APPENDIX 2: RELEVANT ARTICLES OF THE ECHR**

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### **ARTICLE 9: Freedom of thought, conscience and religion**

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

### **ARTICLE 10: Freedom of expression**

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

### **ARTICLE 11: Freedom of assembly and association**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.