

Committee:	Date:
Police Authority Board	20 July 2022
Subject: Public Order Bill	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 6, 12
Does this proposal require extra revenue and/or capital spending?	No
Report of: Remembrancer Report author: Kiki Hausdorff, Assistant Parliamentary Affairs Counsel	For Information

Summary

The Public Order Bill has completed its Committee Stage in the House of Commons. Many of the Bill's provisions were originally tabled by the Government as amendments to the Police, Crime Sentencing and Courts Act 2022 in the Lords, where they faced strong opposition. The Bill strengthens police powers in response to the recent increase of dangerous and disruptive tactics by protesters. A date for Report Stage has yet to be announced.

The Bill establishes new offences of locking on and going equipped to lock on, obstructing major transport works, and interfering with 'key national infrastructure'. It introduces new powers for police to stop and search individuals, both on suspicion and without suspicion, for articles related to protest offences, and to seize articles found. The Bill also establishes a new Serious Disruption Prevention Order, to disrupt the protest activities of repeat offenders.

Recommendation

Members are asked to note the contents of this report.

Main Report

Parliamentary proceedings

1. The Public Order Bill was introduced in the House of Commons on 11 May and completed Committee Stage on 21 June. A date for Report Stage has yet to be announced.
2. The Bill follows the Police, Crime Sentencing and Courts Act 2022, which received Royal Assent on 28 April. That Act encountered controversy directed at its public order provisions, which strengthen police powers to restrict public processions and

assemblies. It was the subject of reports by the Remembrancer to the Police Authority Board during its passage and after receiving Royal Assent.

3. Many of the Public Order Bill's provisions were originally tabled by the Government as amendments to the 2022 Act. The measures were introduced at a late stage in that Act's parliamentary passage in the Lords, where they were rejected. Crime and Policing Minister Kit Malthouse said peers voted against the measures because they had not felt the provisions had been properly scrutinised by the Commons. The Government were therefore "subjecting the measures to democratic scrutiny by a forensic Committee" under Public Order Bill, in the hope that MPs would signal to the Lords that "the intention of the democratic House is to strengthen the police's ability" to address "difficult and dangerous" protest tactics.
4. Opposition members have called the Bill "a rehash" of the protest provisions which did not make it into the 2022 Act. At Second Reading, shadow ministers also criticised that MPs were being made to consider "a new raft of proposals" before the public order provisions of the 2022 Act had come into force. Passing further measures before the effects of the 2022 Act were known was "illogical", said the opposition, with "no evidence base that further measures are needed."

Aims of the Bill

5. The purpose of the Bill, in the words of the explanatory note, is to "strengthen police powers to tackle dangerous and highly disruptive tactics employed by a minority of protesters." It includes provisions to "protect major transport projects and key national infrastructure from being targeted by protesters, causing significant delays to the travelling public, preventing the distribution of critical goods such as fuel, and causing costly delays in construction."
6. The Bill responds to changes in protesters' tactics in recent years, which the Home Secretary said police need additional powers to deal with. She said police sought clarification about their powers following recent protests, and the Government had been "looking at how the courts can work much better to take action." New stop and search powers under the Bill aimed to "prevent the disruption from happening in the first place." The measures were "not about clamping down on free speech," the Home Secretary said, but about "protecting the public from serious disruption." Malthouse told the Commons that "those who call themselves protesters, but are in many cases trying to effect a mass blackmail on the British public, must face the consequences."

Content of the Bill

7. The Bill establishes new offences, new stop and search powers, and new 'Serious Disruption Prevention Orders'.

New Offences

8. The Bill creates new offences of locking on and going equipped to lock on. The Home Secretary has warned that these tactics drain a significant amount of police time and resources and are "extremely dangerous and disruptive," with protesters placing both themselves and police removal teams at risk. The Government

anticipates that the creation of locking-on as a stand-alone offence, rather than as an adjunct to another offence such as criminal damage, may assist police better to address this tactic. The offence of going equipped to lock on, where a person has an object (such a glue or a padlock) with the intention of using it for locking-on, seeks to empower police to take pre-emptive action.

9. The Bill establishes an offence of obstructing major transport works, including the construction or maintenance of such works. This provision is in response to protesters' disruption of the construction of HS2.
10. The Bill creates a new offence of interfering with 'key national infrastructure', which includes road, rail, air and harbour transport infrastructure, as well as oil, gas and electricity generation infrastructure, and newspaper printing infrastructure. A person interferes with the key national infrastructure if they prevent or "significantly delay" the infrastructure from being used or operated. The provision is in response to attempts by groups such as Just Stop Oil to blockade oil refineries.

New Powers

11. The Bill introduces new powers for police to stop and search individuals, both on suspicion and without suspicion, for articles related to protest offences, and to seize articles found.

Powers to stop and search on suspicion

12. The Bill amends section 1 of the Police and Criminal Evidence Act 1984 to allow a constable to stop and search a person or vehicle if they have reasonable grounds for suspecting that they will find an article made, adapted or intended for use in the course of or in connection with the following offences:
 - a) wilful obstruction of a highway involving activity causing or capable of causing serious disruption;
 - b) intentionally or recklessly causing public nuisance;
 - c) locking on;
 - d) causing serious disruption by tunnelling or being present in a tunnel;
 - e) obstruction of major transport works; and
 - f) interference with use or operation of key national infrastructure.

Powers to stop and search without suspicion

13. The Bill provides for a senior officer of or above the rank of inspector to give an authorisation enabling a police constable in uniform to exercise stop and search powers without suspicion, where the senior officer reasonably believes that persons within their police area are carrying objects made, adapted or intended for use in connection with any of the offences specified above, or any such offence may be committed in their police area.

New 'Serious Disruption Prevention Orders'

14. The Bill introduces a new preventative court order, the Serious Disruption Prevention Order, to disrupt the activities of repeat offenders. It sets out the conditions for making a SDPO on conviction (on the application of the prosecution), or otherwise than on conviction, on application by "a relevant chief officer of police". This would mean the Commissioner of the City of London Police, if the subject of the prospective order lives in City of London police area, or the Commissioner believes that the subject is in, or is intending to come to, that area. The court must consider it necessary to make the order for the purpose of:
- g) preventing the person from committing a protest-related offence or a protest-related breach of an injunction,
 - h) preventing the person from carrying out activities related to protests that result, or are likely to result in, serious disruption to two or more individuals or an organisation,
 - i) preventing the person from causing or contributing to the commission by another person of the acts set out at (a) or (b) above (for example, where the person was responsible for organising protests),
 - j) protecting two or more individuals or an organisation from the risk of serious disruption caused by a protest-related offence, a protest-related breach of an injunction or activities related to a protest.

Relevance to the City of London

15. Of particular interest to the City of London Police is a clause which provides for consistency between police forces in London and those in the rest of the country. This relates to the delegation of certain powers under the Public Order Act 1986, in relation to processions, assemblies and one-person protests. The clause amends section 15 of the 1986 Act so that the functions can be delegated to an officer of the rank of Commander (or above), which is equivalent to an Assistant Chief Constable outside of London. The Government have stated that this amendment is necessary "to relieve Assistant Commissioners of the heavy burden of attending court to provide first hand evidence whenever the lawfulness of a condition attached to a protest is contested."
16. In Committee Stage of the Bill, the MP for the Cities of London and Westminster, Nickie Aiken (Conservative), told MPs that her constituency "tends to be the epicentre of political protest in this country... as it is home to the Government, to Parliament and to the UK's financial heart in the City of London." She said it had been made clear to her by both the Metropolitan Police and the City of London Police, that existing legislation "has not kept pace with the evolving tactics of modern-day protesters," and made it "almost impossible for the police to balance lawful protest and basic civil rights." She welcomed provisions in the Bill to address this. She told MPs they "must ensure that both lawful protest and everyday life can continue without the basic rights being infringed in respect of either." She argued that the Bill "does exactly that," and that its provisions were "absolutely necessary to rebalance lawful protest and civil rights." She acknowledged, however, that Parliamentarians needed to reach an agreement that satisfies both Houses.

Conclusion

17. As noted above, a date for Report Stage has yet to be announced. Further opposition amendments are anticipated as the Bill progresses through the Commons. The Government are then expected to face strong opposition in the Lords, as they did when the provisions were first proposed as amendments to the Police, Crime Sentencing and Courts Act 2022.

Contact:

Kiki Hausdorff
Assistant Parliamentary Affairs Counsel
Remembrancer's Office
Kiki.Hausdorff@cityoflondon.gov.uk