

# ANNEX B

NATIONAL FORUM MEMBERS IN CONFIDENCE - PLEASE DO NOT  
DISSEMINATE FURTHER

In confidence

## OFFENCES AND POWERS RELATING TO ANIMAL RIGHTS EXTREMISM

### Summary

This paper provides an update on new powers in the Anti Social Behaviour Act 2003 and outlines possible new powers, which the Government is considering legislating for when Parliamentary time permits.

### Background

2. Section 57 of the Anti-social Behaviour Act 2003 has brought into effect the reduction in the number of people which constitutes a public assembly in section 16 of the Public Order Act 1986, from 20 or more persons to two or more persons. Section 59 has amended sections 68 and 69 of the Criminal Justice and Public Order Act 1994 so that the offence of aggravated trespass includes trespass in buildings. The changes came into effect on 20<sup>th</sup> January 2004 and are already being used by the police.

3. However, Government is considering what more can be done to strengthen police powers to deal with protests outside homes and to deal with harassment of employees by extremists. This paper describes three legislative changes the Government is considering:

- a new offence of protesting outside homes to work alongside the police's direction power under section 42 of the Criminal Justice and Police Act 2001;
- an amendment to section 42 (7) of the Criminal Justice and Police Act 2001 to make it an offence for someone subject to a direction to return within 3 months; and
- an amendment to the Protection from Harassment Act 1997.

### Protests outside homes

4. Section 42 of the Criminal Justice and Public Order Act 2001 allows a police officer to give directions to any person who is "outside or in the vicinity of" a home, providing that:

- ◆ the police officer reasonably believes that the purpose of the protestor's presence is to persuade somebody to do something which they are not under any obligation to do, or conversely, not to do something which they are entitled to do; and
- ◆ the police officer reasonably believes that the presence of the person or people to whom he is giving the direction amounts to harassment of the resident, or is likely to result in harassment or to cause alarm or distress to the resident.

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5. The direction may include any requirements the police officer considers necessary to prevent the harassment of the resident or the causing of alarm or distress to the resident.

6. While section 42 is being used successfully by a number of forces to contain protests, the perception of victims is that the legislation is not working because protestors continue to turn up to conduct protests outside their homes and there are few arrests and convictions for non-compliance with a direction. The main reason for the low arrest/conviction rate is that generally when issued with a section 42 direction, protestors will comply before the need to arrest arises.

7. However, one of the operational difficulties with the current provision is that it does not cover the situation where a complaint is made about the presence of protestors outside a person's home, but the protestors disappear before the police arrive or the police are not able to give a direction as they do not have the resources to enforce it **at the scene**. A new arrestable offence would address this loophole.

13. The ingredients of the proposed new offence would be as follows:

A person will commit an offence if:

- he is present outside or in the vicinity of any premises that are used as a dwelling;
- he is present for the purpose of representing to or persuading the resident, or anyone else, that he should not do something he is entitled to do, or that he should do something he is not obliged to do;
- his presence amounts to, or is likely to result in, the harassment of the resident, or is likely to cause alarm or distress to the resident; and
- he intends to cause harassment, alarm or distress to the resident of a dwelling.

14. As with section 42 of the 2001 Act, the new offence would not apply to conduct that is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (right peacefully to picket a work place).

15. The new offence would apply to situations where someone causes alarm to someone other than the intended target, for example the neighbour of the intended target. The new offence would be arrestable so that a constable would be able to make an arrest where he has reasonable grounds for suspecting the offence has taken place and he has reasonable grounds for suspecting the protestor is guilty of the offence. This means that the police would be able to deal with protestors after the event which would address the difficulties of having to enforce a direction at the scene of the protest.

16. The new offence would be punishable on summary conviction with up to 6 months' imprisonment and/or a fine not exceeding level 5.

Amendment to section 42 (7) of the Criminal Justice and Police Act 2001

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17. The Government is also considering amending section 42 (7) of the Criminal Justice and Police Act 2001 to make it an offence for a person subject to a direction to return to the vicinity of the premises within 3 months for any of the purposes described in section 42 (1) (b). This would mean that where a protestor has been directed to leave the vicinity, irrespective of whether he complies with that direction, but returns to the vicinity within 3 months to represent/persuade the resident or another that he should not do something he is entitled to do or that he should do something he is not obliged to do, he would commit an offence.

Amendment to Protection from Harassment Act 1997

18. Several companies have been granted injunctions which restrain protestors from pursuing a course of conduct which amounts to harassment of the protected persons (i.e. the Directors of the companies, employees, families etc) under the Protection from Harassment Act 1997. Despite the injunctions granted it is not clear how far the 1997 Act can be used to protect employees of a company or a company itself.

19. Section 1 makes it a criminal offence for a person to pursue a course of conduct which amounts to harassment of another and which that person knows amounts to harassment of the other. Section 3 of the 1997 Act provides a civil remedy which enables a victim to seek an injunction against a person who is harassing them or may be likely to do so.

20. To secure a conviction it needs to be proven that there is a course of conduct in which a person harassed another. The courts have applied a strict interpretation of the word "another" which has confined the application of this provision to harassment of specific individuals and thus employees of a company do not presently benefit from this provision when they have not previously themselves been harassed, even though a fellow employee has been.

21. To address this problem, the Government is considering an amendment to extend the Act to cover harassment of two or more people who are connected (e.g. employees of the same company) even if each individual is harassed on only one occasion.

**Conclusion**

22. National Forum members are invited to note the new legislative powers the Government is considering and to advise immediately whether there are any additional provisions it would wish the Government to consider for future legislation, when Parliamentary time permits. Comments should be sent to [REDACTED] by Monday 21 June.

**Home Office  
June 2004**

ATTORNEY GENERAL

Cc Solicitor General\*

\* W/o encs.

**ANIMAL RIGHTS EXTREMISM: NATIONAL FORUM:  
22 July 2004**

**Issue**

You asked for a meeting of the National Forum to be arranged before recess. The papers follow this briefing.

**Timing**

**Immediate.** The meeting takes place tomorrow morning.

**Agenda and papers**

The agenda is attached at **flag A**. This is necessarily short as there are only 45 minutes available for the meeting; this was the only time when Caroline Flint, Lord Sainsbury, and Lord Warner were available (Chris Leslie will not be attending).

I have attached a short speaking note (**flag B**) for your introductory remarks. The minutes from the previous meeting of the National Forum are at **flag C**.

The paper for item 2 – progress against the delivery plan – is at **flag D**. The paper for item 3, police update on cases progressing through the system is at **flag E**.

The paper on data collection for item 5 is at **flag F**.

**Background**

You will recall that the following was agreed at the meeting of MISC 13 on 6 July, further to discussions that had taken place at the HO Delivery Group on 15 June:

- That the Delivery Group should merge with the National Forum to provide a Ministerial-led, high-level group, meeting monthly, chaired by the Attorney General and consisting of Ministers from the Home Office, DTI, DCA and representatives from the Police Service, CPS and the Courts Service;
- That the remit of the group should be to focus on delivery and operational issues across the CJS; and
- That MISC 13 should take regular reports from the delivery group, and remit operational issues to it as appropriate. As the formal Government decision making body, MISC 13 should also continue to consider

The agenda for this meeting follows the format that was also agreed at MISC 13.

**Other issues**

1. The paper at **flag D**, covers the work in progress. In order for the group to become truly delivery focused and to begin to have a clear agenda of

issues for each meeting, the plan needs to develop along project management lines, with fewer 'ongoings' and greater individual ownership. The membership of the group would also benefit from slimming down. It is true to say that this focus will become a lot easier, and the service to group members better, when there is a dedicated secretariat in place in the HO.

2. The legislative proposals discussed at the last meeting are close to DA clearance. HO officials advise me that Caroline Flint is starting to look at this issue in a different way however, heavily influenced by recent conversations with industry representatives, and impressions of the American approach. She is focused on suggestions from [redacted] about new offences (KJ is taking a longer term view on this), and hopes to include them in the Organised Crime Bill. Any changes would require further DA clearance. She may well seek to bring this up at the meeting. Being a legal matter, [redacted] is in the lead on this.

3. The paper on data collection (flag F) is a start. At the last meeting, and at MISC 13 it was agreed that a strategy on this was necessary. This paper is a building block towards that, but more work will be needed over the summer.

4. A further COBR meeting, chaired by [redacted], is scheduled for Friday.

[redacted]  
[redacted]  
21 July 2004

(1) Legislative - <sup>(1-13)</sup> ~~Item 26~~ ~~Item 26~~  
we want?

(2) ~~Enforcement~~ - ~~Item 26~~  
exp. Item 26 - ~~Item 26~~ ~~Item 26~~  
32. Dec 2 Report

(3) CJ - Sample 15 + 17  
60  
49

(4) Individuals - DT1, 1. response  
15. 1-1 - Public Law Key

## **SPEAKING NOTE: INTRODUCTORY REMARKS TO THE ARE NATIONAL FORUM**

- Welcome, thanks for coming, short notice etc.
- Recall last meeting, first one chaired by a minister. Recent events show the vital importance of retaining a clear focus on this serious issue.
- I felt it was very important that we had a meeting before recess to ensure that there was a clear direction set for activity over the summer.
- Pleased to see delivery plan beginning to be developed to enable us to make clear, well organised progress and really make a difference on this issue.
- Very little time available, want to get through the agenda, so let us get started.



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The Rt Hon The Lord Goldsmith QC

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23 September 2004

*Dear Norman*

**DATA COLLECTION ON ANIMAL RIGHTS EXTREMISTS**

Thank you for your letter of 9 September 2004 concerning the issue of data collection which was discussed at the recent National Forum Meeting.

I am grateful for the comments that you have raised concerning the issue of data collection. We are all agreed that a coherent and effective system of capturing ARE activity needs to be established quickly. The Home Office agreed to reflect your comments in their reworking of the data collection paper before it is re-circulated prior to the next National Forum Meeting.

I entirely agree that the data collection must be effective and must provide us with the source of information that you have outlined in the penultimate paragraph of your letter. I am sure that with the police capturing such data and the CPS also identifying and flagging cases when entering their system that they will be able to provide ministers with the necessary information.

*Yours sincerely*

*AS*

## ARE HANDOVER NOTE

**Files:** The ARE file is in the cabinet by the window. The other parts are in filing.

J drive: j/me/ARE (or animal rights - can't recall precise name)

### **Background: The National Forum**

The animal rights brief has changed recently. When I joined the AG said he wanted a group to be established which brought together the central agencies of police and CPS to disseminate best practice and talk through difficulties. It was widely thought that although the police and CPS were doing good work they weren't really talking to each other. Thus, the National Forum was established. This brought together police, IPS, Courts service, Home Office and DTI. The latter agency being a key player because of its links to the big industry which is targeted by the extremists.

The first meeting of the National Forum took place in Oct 2003 and was chaired by me. In the J drive will be the original terms of ref for the Forum and early agendas. It was very much an operational group looking at ways to improve performance at the coal face rather than a strategic group.

Some months later the group changed. Ministers felt that it wasn't really delivering improvements and therefore it became ministerial led rather than by officials. The AG himself chaired each meeting which was also attended by Caroline Flint (Home Office minister) and Lord Sainsbury (DTI) as well as the same officials. One of the early complaints was that the police didn't have a central figure to lead on ARE (animal rights extremist) issues. The police therefore appointed [REDACTED], a former assistant chief constable as ACPO ARE lead.

The CPS also improved its own performance. They identified an ARE champion for each area which are supposed to be contacted by police in their area whenever an ARE operation is to take place. Take up by the police has been patchy and one of the problems is that some areas have very little ARE activity. A conference for ARE champions took place in London a couple of years ago and another is slated shortly.

### **Present position:**

It was widely agreed that the ministerial led National Forum delivery group as it became known wasn't really working. The meetings were monthly and there wasn't effective policing of progress by the Home Office (which provided the secretariat functions for the Group). Thus, it was decided that the Group would revert to an officials group led not by the AG but rather the Home Office. Thus a Group variously called the delivery group or something similar was established in the summer. This is chaired by [REDACTED] a permanent secretary at the Home Office (i.e a very, very high level official/mandarin). The group is also attended by many of the same officials as attended the Forum, such as [REDACTED]. From LSLO [REDACTED] attends (this supposed to be a higher level officials meeting than the original Forum).



**NATIONAL FORUM  
STANDARD AGENDA**

- Item 1 Progress against Delivery Plan
- Item 2 Police data
- Item 3 Update on cases progressing through system
- Item 4 Specific agenda item drawn from an agreed programme
  - Involvement of Industry
  - Data Collection
  - Websites

## CHAIRS OPENING REMARKS

Thank you for coming...

### 1. BACKGROUND TO THE FORUM

- The Forum was originally proposed by the Attorney General
- Why? As terms of Reference say-there is a need for a national strategic approach to dealing with animal rights activists. *(YOU ARE ALL EXPERTS)*
- Pulling together all the strands of the criminal justice agencies, police, prosecution and courts
- The Forum can ensure that best practice is disseminated more widely than at present, ensuring greater national consistency, not only in areas currently dealing with ARE activity, but also those not used to such criminal actions
- This will also increase national awareness of such activities

TAKING ON A MORE RADICAL ROLE  
- CREATION AS A TEAM TO ADVISE IN INDIVIDUAL CASES PRESENT

- The Forum can do more than disseminate best practice. It can develop new ideas to deal with ARE's. They are a resourceful group and fresh ideas around policing and prosecuting them can be developed and then taken forward by the various agencies
- The Attorney is extremely anxious to ensure the Forum succeeds, as are the various Home Office ministers, such as Carline Flint.
- The future shape of the Forum can largely be decided by how this meeting goes. I have drawn up a document called "terms of reference-discussion document". This details some of the questions that must be answered if the Forum is to develop. Please keep them in mind as the meeting progresses. Following the meeting, a formal terms of reference document will be prepared for ratifying at the next meeting.

