

Crime and Policing Bill Sections 32-35 - An Offence of 'Cuckooing'

House of Commons Public Bill Committee Written Evidence

Prepared by Dr Laura Bainbridge and Dr Amy Loughery

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UNIVERSITY OF LEEDS

Introduction

We warmly welcome the introduction of new legislation to make 'cuckooing' a specific criminal offence. Cuckooing is a highly predatory and exploitative practice that is causing serious harm to individuals, families, and communities. Together with members of the [Cuckooing Research & Prevention Network](#), we campaigned tirelessly for cuckooing to be included in the Conservative Government's Criminal Justice Bill 2024 and the Labour Government's Crime and Policing Bill 2025. Our rationale has not changed – we believe that this legislation is vital to:

- 1) Deterring perpetrators from engaging in this practice
- 2) Improving recording and analysis of cuckooing cases, which in turn can assist with target-hardening potential victims and properties
- 3) Simplify a complex legal landscape and ensure consistency in charging decisions and sentencing across England and Wales

As the Crime and Policing Bill moves through Parliament, we would like to flag several concerns that we have with regards to the proposed cuckooing clauses. These concerns are outlined below, along with a series of recommendations.

For further information, please contact:

Dr Laura Bainbridge
Associate Professor in Criminal Justice
School of Law
University of Leeds
Leeds
LS2 9JT
L.Bainbridge@leeds.ac.uk

Response

32(1) Offence of Cuckooing

32 (1) A person (A) commits an offence if— (a) A exercises control over the dwelling of another person (B), and (b) A does so for the purpose of enabling the dwelling to be used in connection with the commission (by any person) of one or more relevant offences, and (c) B does not consent to A exercising that control for that purpose.

Cuckooing is defined as an offence with three elements: control of a dwelling, for the purpose of enabling the commission of relevant offences, without the consent of the resident.

The second element is problematic as a dwelling may be taken over without the consent of the resident prior to offences taking place. The current wording of the legislation has the potential to create a situation whereby a vulnerable person's home has been taken over, but investigative agencies cannot intervene until there is evidence of criminal activity to satisfy subsection (1)(b) of the offence.

We welcome the inclusion of consent as the third element of the offence, rather than a defence. This ensures that the burden of proof remains with the prosecution to prove that the resident did not consent to use of their property.

Recommendation 1

Cuckooing should be defined as 1(a) exercising control over the dwelling of another person (1)(c) without their consent, (1)(b) to enable the dwelling to be used in connection with the commission (by any person) of one or more relevant offences or any other activity that is illicit or unwanted by the resident.

32(1)(d) Defence of Coercion

[Research conducted with cuckooing victims and perpetrators](#) confirms that children, young people and vulnerable adults may be forced, coerced, or intimidated into taking over peoples' homes to carry out illegal or unwanted activity. Such individuals are often termed 'alpha victims'. Considering this evidence, a defence of coercion should be available to those charged with an offence under section 32(1).

Recommendation 2

A subsection 32(1)(d) inserted after 32(1)(c) should read "it is a defence for a person charged with an offence under this section to prove that the exercise of control mentioned in subsection (1)(a) for the purpose mentioned in subsection (1)(b) was done so by force, or under threat or coercion by another".

Recommendation 3

Inserted after 32(1), a further subsection 32(1.5) could outline factors influencing coercion. For example, if the person has a learning difficulty, a mental health issue, drug dependence, and/or drug debt (to give some non-exhaustive examples) and has taken over the dwelling of another following threats of violence, blackmail, or debt bondage (to give some non-exhaustive examples) it might be considered that they have been coerced by another into committing an offence under section 32(1).

Recommendation 4

Alternatively, a subsection to this effect could borrow from the language of the Modern Slavery Act 2015 section 3(5) and 3(6), “consent would not be considered consent where ... (5) The person is subjected to force, threats or deception designed to induce him or her— (to consent)” or (6) “another person uses or attempts to use the person for a purpose within (Criminal Justice Act Section 1(a)) having chosen him or her for that purpose on the grounds that— (a) he or she is a child, is mentally or physically ill or disabled, or has a family relationship with a particular person, and (b) an adult, or a person without the illness, disability, or family relationship, would be likely to refuse to be used for that purpose.

It should be noted that, like modern slavery cases, it is likely to be difficult to prosecute an offence of cuckooing where the victim is unwilling to participate in the prosecution process. Evidence-led prosecutions may also prove challenging in situations where victims refuse to engage with the police and safeguarding agencies due to fear of reprisal from perpetrators.

Recommendation 5

In line with domestic abuse and human trafficking victims, cuckooing victims should be entitled to refuge and associated support should they wish to flee.

32(2) Relevant Offences

32(2) In this section “relevant offence” means—(a) where the dwelling is in England or Wales, an offence under the law of England and Wales that is listed in Part 1 of Schedule 5; (b) 25 where the dwelling is in Scotland, an offence under the law of Scotland that is listed in Part 2 of Schedule 5; (c) where the dwelling is in Northern Ireland, an offence under the law of Northern Ireland that is listed in Part 3 of Schedule 5.

This section limits the scope of offences that satisfy section 32(1)(b). Vulnerable peoples’ homes may be taken over to facilitate activity that is not illegal, or not yet illegal, but is still unwanted by the resident, e.g. anti-social behaviour, house parties, storing of CCTV equipment.

Recommendation 6

The wording of subsection 32(2)(a)(b)(c): “an offence under the law... that is listed in Part X of Schedule 5” should be expanded to include “or any other activity which is unwanted, or not consented to, by the resident”.

34.5 Cuckooing Prevention Order

As cuckooing is often a hidden crime and victims may be unwilling to cooperate with the court process, prosecuting cuckooing perpetrators may be challenging.

In line with the Act's provisions on Child Criminal Exploitation (CCE), and civil orders used to monitor individuals who pose a significant risk of committing sexual offences (Sexual Harm Risk and Prevention Orders) and Modern Slavery offences (Modern Slavery Risk and Prevention Orders), a Cuckooing Prevention Order (made otherwise than on conviction) would ensure that individuals who pose a significant risk of cuckooing are monitored by investigative agencies where an offence of cuckooing cannot be proven beyond reasonable doubt.

Recommendation 7

A Cuckooing Prevention Order, which mirrors the provisions of the CCE Prevention Order in the same Act, should be inserted after section 34 to make provision for an Order to supervise those acquitted of an offence of cuckooing where a significant risk of the acquitted cuckooing others can be demonstrated within the balance of probabilities.

Overview - Proposed Cuckooing Legislation

CHAPTER 2

CUCKOOING

32 Controlling another's home for criminal purposes

- (1) A person (A) commits an offence if – 15
 - (a) A exercises control over the dwelling of another person (B), and
 - (b) A does so for the purpose of enabling the dwelling to be used in connection with the commission (by any person) of one or more relevant offences, and
 - (c) B does not consent to A exercising that control for that purpose. 20
- (2) In this section “relevant offence” means – 25
 - (a) where the dwelling is in England or Wales, an offence under the law of England and Wales that is listed in Part 1 of Schedule 5;
 - (b) where the dwelling is in Scotland, an offence under the law of Scotland that is listed in Part 2 of Schedule 5;
 - (c) where the dwelling is in Northern Ireland, an offence under the law of Northern Ireland that is listed in Part 3 of Schedule 5.
- (3) Section 33 contains provision about the interpretation of this section.
- (4) A person who commits an offence under this section is liable – 30
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both); 35
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);

- (d) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).

33 Section 32: interpretation

- (1) This section applies for the purposes of section 32.
- (2) A reference to the dwelling of a person is to any structure or part of a structure occupied by the person as their home or other living accommodation (whether the occupation is separate or shared with others), together with any yard, garden, grounds, garage or outhouse belonging to it or used with it. 5
- (3) In subsection (2) “structure” includes a tent, caravan, vehicle, vessel or other temporary or movable structure. 10
- (4) The circumstances in which A exercises control over B’s dwelling include circumstances where A exercises control (whether temporarily or permanently) over any of the following—
 - (a) who is able to enter, leave, occupy or otherwise use the dwelling or part of the dwelling; 15
 - (b) the delivery of things to, or the collection of things from, the dwelling;
 - (c) the way in which, or the purposes for which, the dwelling or part of the dwelling is used;
 - (d) the ability of B to use the dwelling or part of the dwelling for B’s own purposes. 20
- (5) For the purposes of section 32(1)(c), B consents to A exercising control for the purpose mentioned in section 32(1)(b) only if—
 - (a) B is aged 18 or over,
 - (b) B has capacity to give consent to the exercise of control for that purpose, 25
 - (c) B is given sufficient information to enable B to make an informed decision about whether to consent,
 - (d) B gives consent freely, and
 - (e) the consent is not withdrawn.

34 Power to amend definition of “relevant offence” 30

- (1) The Secretary of State may by regulations amend Schedule 5, except so far as the amendment could be made by regulations under subsection (2) or (3).
- (2) The Scottish Ministers may by regulations amend Part 2 of Schedule 5, where provision about the offence to which the amendment relates would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament. 35
- (3) The Department of Justice in Northern Ireland may by regulations amend Part 3 of Schedule 5, where provision about the offence to which the amendment relates—

- (a) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
- (b) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998.

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CHAPTER 3

CONSEQUENTIAL PROVISION

35 Protections for witnesses, and lifestyle offences

- (1) In Part 2 of the Youth Justice and Criminal Evidence Act 1999—
 - (a) in section 17(4A) after paragraph (b) insert—
 - “(ba) an offence under section 17 of the Crime and Policing Act 2025 (child criminal exploitation);
 - (bb) an offence under section 32 of that Act (controlling another’s home for criminal purposes);”;
 - (b) in section 33(6) after paragraph (d) insert—
 - “(e) an offence under section 17 of the Crime and Policing Act 2025 (child criminal exploitation);
 - (f) an offence under section 32 of that Act (controlling another’s home for criminal purposes).”;
 - (c) in section 35(3) after paragraph (a) insert—
 - “(aa) an offence under section 17 of the Crime and Policing Act 2025 (child criminal exploitation);
 - (ab) an offence under section 32 of that Act (controlling another’s home for criminal purposes);”.
- (2) In Part 2 of the Criminal Evidence (Northern Ireland) Order 1999 (special measures directions for vulnerable witnesses etc)—
 - (a) in Article 5(5) after sub-paragraph (d) insert—
 - “(e) an offence under section 32 of Crime and Policing Act 2025 (controlling another’s home for criminal purposes).”;
 - (b) in Article 21(5) for “a slavery or human trafficking offence,” substitute “—
 - “(a) a slavery or human trafficking offence, or
 - (b) an offence under section 32 of Crime and Policing Act 2025 (controlling another’s home for criminal purposes).”.
- (3) In Article 23 of that Order—

- (a) in paragraph (3) after sub-paragraph (ce) insert –
 - “(cf) an offence under section 32 of Crime and Policing Act 2025 (controlling another’s home for criminal purposes);”;
- (b) in paragraph (4)(a) for the words from the beginning to “(ce)” substitute “except in a case mentioned in sub-paragraph (b)”. 5
- (4) In the Proceeds of Crime Act 2002 –
 - (a) in Schedule 2 (lifestyle offences: England and Wales), after paragraph 3A insert –
 - “*Exploitation of vulnerable persons* 10
 - 3B (1) An offence under section 17 of the Crime and Policing Act 2025 (child criminal exploitation).
 - (2) An offence under section 32 of that Act (controlling another’s home for criminal purposes).”;
 - (b) in Schedule 4 (lifestyle offences: Scotland), after paragraph 4A insert – 15
 - “*Exploitation of vulnerable persons*
 - 4B An offence under section 32 of the Crime and Policing Act 2025 (controlling another’s home for criminal purposes).”;
 - (c) in Schedule 5 (lifestyle offences: Northern Ireland), after paragraph 3A insert – 20
 - “*Exploitation of vulnerable persons*
 - 3B An offence under section 32 of the Crime and Policing Act 2025 (controlling another’s home for criminal purposes).”