



BRIEFING PAPER

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Covert Human Intelligence Sources (Criminal Conduct) Bill 2019-2021: Lords Amendments

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1. Covert Human Intelligence Sources (Criminal Conduct) Bill 2019-2021

The [*Covert Human Intelligence Sources \(Criminal Conduct\) Bill 2019-2021*](#) was introduced in the House of Commons on 24 September 2020. It had Second Reading on 5 October and all remaining Commons stages on 15 October 2020. The Bill was introduced in the House of Lords on 19 October and completed Third reading on 21 January 2021.

During Ping Pong a number of Lords amendments were rejected by the Commons on 27 January, and alternative Government amendments were proposed by the Lords on 9 February. The House of Commons are scheduled to consider these amendments in lieu on 24 February. They concern access to the Criminal Injuries Compensation Scheme for victims of conduct governed by the Bill, and safeguards for children and vulnerable adults.

The main purpose of the Bill is to introduce a power in the *Regulation of Investigatory Powers Act 2000* (RIPA) to authorise conduct by officials and agents of the security and intelligence services, law enforcement, and certain other public authorities (covert human intelligence sources, or 'CHIS'), which would otherwise constitute criminality. These authorisations would be known as criminal conduct authorisations (CCAs). The existing non-statutory policy for authorising such conduct is the subject of an ongoing legal challenge. The Bill would place the activity on a statutory footing and would limit civil and criminal liability for those subject to authorisations.

The House of Lords made several amendments to the Bill. These are set out in [*Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill*](#), and include:

- Limiting the conduct that can be authorised, so that it would not be possible to authorise conduct amounting to serious offences such as murder, rape, torture, and perverting the course of justice;
- Introducing additional safeguards for authorisations relating to children or vulnerable sources;
- Introducing a new requirement to notify a judicial commissioner from the Investigatory Powers Commissioner's Office within seven days of an authorisation being granted or cancelled;
- Ensuring that victims of authorised conduct are not precluded from claiming Criminal Injuries Compensation; and

- Limiting the Bill's application in Scotland

This paper should be read in conjunction with Library Briefing Paper CBP9012 [Covert Human Intelligence Sources \(Criminal Conduct\) Bill 2019-2021](#), published prior to the Bill's Second Reading in the House of Commons, which explains the background to the Bill and the effect of its provisions in detail.

2. Committee scrutiny

2.1 Joint Committee on Human Rights report

The Joint Committee on Human Rights (JCHR) reported on the Bill in November 2020. The JCHR welcomed the fact that the Bill would make the authorisation process for criminal conduct by CHIS more transparent but noted that "the obvious potential for authorised criminal conduct to interfere with human rights means that the Bill must contain effective protections".¹

The Committee noted that the Bill went further than the existing policy by removing prosecutorial discretion to bring prosecutions against CHIS that participate in criminality by providing for complete immunity. This would have significant ramifications for the rights of victims, which had been overlooked in the Bill, the JCHR concluded.

The JCHR further concluded that there was no good reason for the Bill not to state clearly that certain offences are incapable of authorisation and recommended that it be amended to prohibit the authorisation of serious criminal offences.²

The Committee made a number of further recommendations on the scope of authorisations, including:

- That they should only be granted with respect to children in the most exceptional circumstances;³
- That they should only be authorised for purposes relating to national security and the detection or prevention of crime;⁴ and
- That the person authorising the criminal conduct should be required to have an objectively reasonable belief in its necessity and proportionality.⁵

The JCHR also concluded that it was unacceptable for the Bill to propose that the authorisation of crime, and consequential grant of civil and criminal immunity, should have fewer safeguards than the authorisation of search warrants and phone tapping. The Committee suggested that the Government should explain why the Bill would remove prosecutorial discretion, providing for complete immunity instead, and that CCA authorisations should be subject to prior judicial approval, except in urgent cases.⁶

2.2 Constitution Committee

The House of Lords Constitution Committee also reported on the Bill in November 2020. The Committee welcomed the Bill in principle, on the basis that it "brings legitimacy and

¹ [Legislative scrutiny: Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#), 10 November 2020, Joint Committee on Human Rights, para 31

² *Ibid*, para 53

³ Para 63

⁴ Para 73

⁵ Para 67

⁶ Para 100

transparency to the rules that apply to covert human intelligence sources". However the Committee raised concerns about certain provisions. These included:

- The fact that CCAs could be authorised for the purpose of protecting the economic well-being of the UK. The Committee suggested that the House of Lords should consider whether a more specific justification should be required.
- Whether it is appropriate for all the bodies listed in the Bill to be able to authorise criminal conduct.
- The lack of prior judicial authorisation. The Committee agreed with the JCHR that this should be required except where it is not reasonably practicable.⁷

3. Lords stages

Second reading

At Second Reading, Lord Rosser indicated that the Opposition continued to support the Bill in principle, but would push for further safeguards and oversight. In particular, he noted the need for:

- An explicit limit on the conduct that could be authorised, in order to exclude serious crimes such as murder, torture and sexual offences;
- Prior judicial oversight of authorisations and a specific oversight role for the Intelligence and Security Committee;
- Safeguards for juvenile and vulnerable CHIS, and measures to prevent a disproportionate impact on certain groups with protected characteristics;
- Some form of redress for victims of authorised conduct;
- Consideration of the necessity of enabling non-security agencies to use the powers⁸

Lord Paddick, for the Liberal Democrats, was supportive of the Bill insofar as it would provide a statutory basis for maintaining the status quo. However, he suggested that the Bill in fact went beyond the current position, whereby the Crown Prosecution Service are able to consider whether it is in the public interest to prosecute CHIS who participate in criminality. Granting prior immunity in all cases would not be "preserving the status quo by any stretch of the imagination" and he proposed that this provision should be removed from the Bill.⁹

Whilst broadly supportive of the aims of the Bill, other speakers from all parties raised concerns, about the use of children as CHIS and lack of explicit limits on the conduct that could be authorised in particular, but also about oversight of authorisations, and the range of agencies with the power to grant authorisations.

Committee

During four days of Committee, amendments were tabled which sought to address these concerns, including:

- Removing provision for complete criminal immunity from the Bill and instead providing for a public interest defence or the continuation of prosecutorial discretion to determine whether to bring prosecutions against CHIS that participate in criminal conduct;

⁷ [Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#), Constitution Committee, 19 November 2021

⁸ [HL Deb 19 October 2020, c1047-1050](#)

⁹ [HL Deb 19 October 2020, c1052](#)

- Removing the exemption from civil liability for CHIS in order to ensure that victims have some form of redress;
- Explicitly limiting the scope of CCAs to exclude certain serious offences;
- Providing for prior judicial or ministerial approval of CCAs;
- Providing for real time notifications of CCAs to judicial commissioners;
- Introducing an objective test for authorising a CCA; and
- Providing for safeguards for children and vulnerable CHIS

3.1 Amendments

Report stage

At Report stage on 11 January 2021, Baroness Hamwee tabled an amendment to clause 1 which would insert the word “reasonable” into subsection (4) of new clause 29B of RIPA.¹⁰ This would have the effect of requiring that the belief in the necessity and proportionality of a CCA, and in the existence of satisfactory arrangement, be reasonably held, introducing an objective element to the test. Explaining the need for the amendment, Baroness Hamwee said

Belief is subjective, informed or misinformed by background, experience and personality. Some people are naturally more inclined to be that bit more optimistic; I want to avoid judgmental terms such as “casual”. Necessity and proportionality are rightly required criteria, but they lose their force as safeguards unless there is a degree of objectivity in their assessment. “Reasonable” is so usual a term in legislation that its omission itself assumes some significance.

I do not think we have heard an argument that a belief must be reasonable to be a belief, but I anticipate that. I reject that it is implied, because there is no reason to omit the term—and anyway, we should not work on the basis of what may be implied by long usage, as distinct from precedent.¹¹

Supporting the amendment, Lord Anderson of Ipswich said

At this stage, I am a little mystified by the Government’s position. They seem to accept that the relevant belief of authorising officers should be reasonable to the point where they have made an amendment along these lines to the code of practice at paragraph 6.4. Yet they refuse to make the equivalent amendment to the Bill.

The noble and learned Lord the Advocate-General defended the Government’s position in Committee, as the noble Baroness, Lady Hamwee, said, on the basis that it would promote consistency between different parts of the Regulation of Investigatory Powers Act. I suggest that is an argument of little force, given the unique nature of the power conferred by the Bill.

In fact, it is the Government’s position that results in a greater and more damaging inconsistency between the terms of the Bill and the associated parts of the code of practice. If the test is to be reasonable belief, it needs to be stated in the law.¹²

Responding, the Minister, Baroness Williams, reiterated previous objections to a “reasonable belief” test. Principally, that it would create inconsistencies with the tests for other authorisations in RIPA and might cause confusion.

The House divided and the amendment was passed by 282 votes to 259.

¹⁰ Amendment 1, [Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#)

¹¹ [HL Deb 11 January, c558-561](#)

¹² Ibid

On the second day of Report on 13 January, Baroness Massey moved an amendment, proposed by the JCHR which would exclude certain serious offences from the scope of CCAs, by inserting a new subsection (9) into new clause 29B of RIPA.¹³ These are:

- (a) intentionally causing death or grievous bodily harm to an individual or being reckless as to whether such harm is caused;
- (b) involving an attempt in any manner to obstruct or pervert the course of justice;
- (c) amounting to an offence under the Sexual Offences Act 2003, the Sexual Offences (Scotland) Act 2009 or any offence listed in Schedule 3 to the Sexual Offences Act 2003;
- (d) subjecting an individual to torture or to inhuman or degrading treatment or punishment, within the meaning of Article 3 of Part 1 of Schedule 1 to the Human Rights Act 1998; or
- (e) depriving a person of their liberty, within the meaning of Article 5 of Part 1 of Schedule 1 to the Human Rights Act 1998.

Explaining that the amendment was based on evidence submitted to the JCHR, and the Committee's concerns about the Bill, Baroness Massey said:

The bottom line on this amendment is to include a prohibition on the authorisation of serious criminal offences. It establishes a prohibition on such offences listed in my amendment; these are in similar terms to those in the Canadian Security Intelligence Service Act 1985, which I will refer to later.

I am a member of the Joint Committee on Human Rights, as is my noble friend Lord Dubs, and I will refer to its report on the Bill, published last November. The committee had serious concerns about this part of the Bill, and I shall put this amendment to a Division unless I receive a thorough reassurance from the Minister.

...

The government position is that the Human Rights Act provides a guarantee against certain criminal conduct. However, paragraph 40 of the Joint Committee on Human Rights report points out:

"Reliance on the HRA as providing an effective limit on the conduct that can be authorised appears inconsistent with the Government's justification for its refusal to exclude specific offences on the face of the Bill. If a criminal gang or terrorist group was familiar enough with the relevant legislation to test a CHIS against it, they would presumably be equally able to test them against the guarantees and protections set out in the HRA."¹⁴

Responding, the Minister repeated the argument previously advanced by the Government that specifically excluding offences from CCAs would enable the identification of CHIS by criminal gangs who would be able to create tests:

I highlight again to noble Lords the risks that we create by putting explicit limits in the Bill. These are not just risks that the Government have identified; we are being led by the advice and expertise of operational partners. The decisions that we have made throughout this Bill, particularly on this issue, are based entirely on the reality that our operational partners experience in the field—not on the views of myself or any other noble Lord but entirely on the reality that operational partners have told us about, from all parts of the UK. We have heard some very powerful examples from the noble Viscount, Lord Brookeborough.

We must not seek to make amendments to this very important Bill that have unintended consequences both for the CHIS themselves and the wider public. If we create a checklist in the Bill, we make it very easy for criminal gangs to write

¹³ Amendment 2, [Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#)

¹³ [HL Deb 11 January, c558-561](#)

¹⁴ [HL Deb 13 January 2021](#), c802-803

themselves a list of offences that amount to initiation tests. We have no doubt that some of those criminals seeking to demonstrate that they are not a CHIS will go away and do exactly what is asked of them, perhaps committing rape, in order to demonstrate their loyalty to the cause. Some of those who do not will suffer the consequences of wrongly being thought to be a CHIS, which is a point worth digesting.

This does not mean that, if a CHIS were asked to commit any crime as part of an initiation process, they could do so, not least because the Human Rights Act and necessity and proportionality tests already provide limits. It is simply that we need to avoid a refusal to conduct these awful actions being a strong indication to senior terrorists and criminals that a person is a CHIS. The consequences of presenting such a checklist would ultimately be felt by the public: because CHIS cannot be kept in play, there will be more successful terrorist attacks and more children will suffer sexual abuse.

I will again address remarks pointing to an apparent contradiction in the Government saying that we cannot provide limits because sophisticated groups will conduct CHIS testing—and that the Human Rights Act provides limits that these groups cannot identify. The people who are the subject of CHIS operations are many and varied; some are very sophisticated and capable organisations that will invest real effort to understand and frustrate our covert capabilities. These groups, which will include hostile states, will go to lengths to try to convert the HRA obligations into specific offences that they can then test against. They may feel that they have reached clear conclusions on some offences but will not know for certain in every case that their analysis is sound. This margin of uncertainty can be enough to keep CHIS working safely and effectively.¹⁵

The House divided and the amendment was passed by 299 votes to 284.

Lord Anderson moved an amendment that would insert a new subsection (12) into new clause 29B of RIPA providing that anyone suffering injury as a result of conduct that was authorised by a CCA would still be eligible for compensation under the Criminal Injuries Compensation Act 1985¹⁶

The House divided and the amendment was passed by 333 votes to 240.¹⁷

Baroness Kidron moved an amendment that would insert a new section 29C into RIPA, providing safeguards for CCAs granted to children and vulnerable sources.¹⁸ The amendment would provide that no CCA could be granted with respect to a source:

- a. under the age of 18;
- b. with a vulnerability, including a mental disorder or disability, or who was otherwise unable to protect themselves against significant harm or exploitation; or
- c. a victim of modern slavery or trafficking

other than in exceptional circumstances. Where a CCA was granted with respect to such a person, new section 29C would require additional safeguards, including the involvement of an appropriate adult, and notification to the Investigatory Powers Commissioner.

Explaining the amendment, Baroness Kidron said:

Children do not all have the same circumstances. It is simply a fact that some children will not be as well-loved as others, some not as well-cared-for and some not as well-

¹⁵ Ibid, c81815

¹⁶ Amendment 3, [Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#)

¹⁶ [HL Deb 11 January, c558-561](#)

¹⁷ Ibid, c825-828

¹⁸ Amendment 4, [Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#)

¹⁸ [HL Deb 11 January, c558-561](#)

behaved. None the less, whether they are loved, cared for or well-behaved, any person under the age of 18 is a child. In a context where a person under the age of 18 is being asked to be a covert source and do something illegal, we must ensure that they remain a child in the eyes of all who play a part. In every other interaction with the criminal justice system, we try to remove children from criminal activity to take them away from harm and towards safety, but before us is legislation that formalises our ability to do the opposite.

The Government have said that

“Participation in criminal conduct is an essential and inescapable feature of CHIS use, otherwise they will not be credible or gain the trust of those under investigation.”

If, and it is a big “if”, we make this extraordinary demand of a child, we must set a very high bar for the circumstances in which that happens. Amendment 24 does just that. It writes into the Bill the principle that no child should be asked by the state to commit a crime except in exceptional circumstances. It determines that a child can be asked to do so only when there is no possibility that they will come to harm. It upholds our obligations, under the Convention on the Rights of the Child, to treat all children under 18 as children. It ensures that all children get the support of an appropriate adult, currently offered only to children under 16.

...

Amendment 24 also extends the protection of having a second pair of eyes and the principle of exceptional circumstances to vulnerable adults—victims of trafficking or modern slavery who may be older than 18 but are no less at risk of being placed in harm’s way. It complements the amendment of the noble Lord, Lord Anderson, which will ensure that the IPCO needs to be notified of a CHIS authorisation, by ensuring that it is also notified about the exceptional circumstances that justify the use of a child or vulnerable person.¹⁹

The Government tabled an alternative amendment, seeking to address the same issue. Baroness Kidron welcomed the acknowledgment that the existing scheme did not provide adequate safeguards for children, but argued that the Government amendment was not sufficient. She noted that, rather than requiring “exceptional circumstances”, the Government amendment only required that the person granting the authorisation believed that the risk was justified.

The Minister explained the approach taken in the Government amendment:

... the government amendments make very clear that the authorising officer is under a duty to safeguard and promote the best interests of the juvenile, and that this must be a primary consideration whenever they are considering whether to authorise a juvenile CHIS to participate in criminal conduct. This reflects the requirements of Article 3 of the UN Convention on the Rights of the Child. It also sets out a statutory requirement for juvenile CHIS to be authorised to participate in criminal conduct only in exceptional circumstances.

In addition to those requirements, we are applying the same statutory safeguards that are in place for CHIS use and conduct authorisations to the new criminal conduct authorisations and requiring the IPC to keep these enhanced safeguards under particular review. These enhanced safeguards include: a prohibition on under-16s reporting on their parent or guardian; requiring an appropriate adult to be present in meetings with CHIS who are under 16, with a requirement to consider this on a case-by-case basis for 16 and 17 year-olds; a requirement for an enhanced risk assessment; and a shorter duration, of four rather than 12 months, for authorisations. Let me also be clear that the notification

process, as supported by this House in an earlier vote, will also apply to any deployments of juveniles or, indeed, vulnerable people.

¹⁹ [HL Deb 13 January](#), c770-771

...

Turning to vulnerable people and those who have been victims of modern slavery and human trafficking, I first reassure noble Lords that the definition of vulnerable people that is included within the CHIS code of practice is deliberately broad, so as to capture a wide range of circumstances, including victims of modern slavery. I recognise the importance of ensuring that appropriate safeguards are in place for all vulnerable people, regardless of age. That is why there is already a requirement for them to be authorised only in the most exceptional circumstances and at an enhanced authorisation level. For example, an authorisation by the police for someone who may be vulnerable must be granted by an assistant chief constable.²⁰

She explained that the Government could not support Baroness Kidron's amendment because in some respects it was not considered to be workable. She noted in particular that it may not always be clear who should act as an appropriate adult with respect to a vulnerable CHIS, bearing in mind that a public authority had a duty of care to protect their identity. She also suggested that it would take the decision-making power away from the individual, who may have made an independent decision to help the police in order to bring their perpetrators to justice.

The House divided and the amendment was passed by 339 voted to 235.

Lord Anderson of Ipswich tabled an amendment, supported by the Opposition, inserting a new clause after clause 2, which would introduce real time notification of CCAs to judicial commissioners, as soon as reasonably practicable and in any event within seven days.²¹ Explaining the reasoning behind the amendment, and in particular for real time notification, as opposed to prior judicial notification, Lord Anderson said:

My immediate reaction to this Bill was to support prior judicial authorisation. I championed the use of prior judicial approval for other investigatory powers in my report *A Question of Trust*, and was delighted to see this in the Investigatory Powers Act 2016. I accept that it might also be feasible in this context, given sufficient judicial training, yet I have reservations about prior judicial approval in this Bill, not only for the pragmatic reason that the Government have so firmly set their face against it. Handling and authorising a CHIS is a highly specialised function that requires a close and dynamic understanding not only of the details of the operation but of the characters of those involved. That is not something that a judge, let alone a Secretary of State, will necessarily have the capacity to pick up. It differs considerably from the classic judicial exercise of weighing the benefits of tapping a phone or an undersea cable against the associated intrusion of privacy.

The person who tasks a CHIS, including by authorising criminality, effectively takes on a long-term duty of care, not only towards any potential victims of that crime but towards a CHIS for whom exposure could result in injury or death. Perhaps it is for that reason that the American and Canadian models of prior judicial authorisation, both of them inspirations for *A Question of Trust*, are not applied in either country to the tasking of a CHIS to commit crimes.²²

The amendment was agreed on the second day of Report on 13 January with the support of the Government. The Minister, Baroness Williams said:

If noble Lords support Amendment 33, in the name of the noble Lord, Lord Anderson, as the Government will, IPCO will have close to real-time oversight of every single criminal conduct authorisation granted by each public authority. This will be another important safeguard to ensure that the power is being used properly and

²⁰ [HL Deb 13 January 2021](#), c795-796

²¹ Amendment 5, [Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#)

²¹ [HL Deb 11 January, c558-561](#)

²² [HL Deb 11 January 2021](#), c 509-510

appropriately. IPCO will almost definitely flag where this is not the case, or if there are training requirements.²³

The House divided on a further amendment to the new clause, tabled by Lord Thomas of Cwmgiedd, that would provide that if on notification, a judicial commissioner decided that the CCA should not have been granted, all activity under it should cease. The amendment was passed by 298 votes to 259.²⁴

Third reading

Following consultation with the Scottish Government, who were unable to support the Bill, the Government brought forward amendments at Third Reading to remove from the Bill the ability to authorise criminal conduct for devolved purposes in Scotland.²⁵ The Minister expressed disappointment that the Scottish Government had not recommended legislative consent, but explained that it had required amendments to Bill which the UK Government could not support, in particular, placing express limits on the face of the Bill.²⁶

The Minister explained the implications of this to the House at Report stage:

Authorisations necessary for the purpose of national security or the economic well-being of the United Kingdom relate to reserved matters and the relevant public authorities will still be able to grant authorisations for these purposes for activity in Scotland through the powers contained within this legislation. An authorisation necessary for the purpose of preventing and detecting crime or preventing disorder is not in itself reserved. An authorisation granted for the purpose of preventing and detecting crime or preventing disorder may therefore relate to devolved matters, and it will be these matters to which the Bill will not apply.

This means that, for these authorisations in Scotland, public authorities will in the immediate term continue to rely on the existing basis for an authorisation. Were that position to change in the future, it would be for the Scottish Government to bring forward legislation that places this conduct on a clear and consistent statutory basis. The UK Government have worked with operational partners to minimise the immediate operational impact of the legislation not applying UK-wide.²⁷

A number of further consequential amendments were made to Schedule 2.²⁸

4. Ping pong

4.1 Commons consideration of Lords amendments

The House of Commons considered Lords amendments on 27 January.²⁹ The following amendments were disagreed on division:³⁰

- Lord amendment 1: requirement that belief in the necessity and proportionality of a CCA be reasonable;
- Lords amendment 2: preventing the authorisation of serious criminal offences under a CCA;

²³ [HL Deb 13 January 2021](#), c 842

²⁴ [HL Deb 13 January 2021](#), c846-849

²⁵ Amendments 6-11, [Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#)

²⁵ [HL Deb 11 January](#), c558-561

²⁶ [HL Deb 21 January 2021](#), c 1289

²⁷ [HL Deb 13 January 2021](#), c 794

²⁸ Amendments 12-14, [Lords Amendments to the Covert Human Intelligence Sources \(Criminal Conduct\) Bill](#)

²⁸ [HL Deb 11 January](#), c558-561

²⁹ [HC Deb 27 January 2021](#), cc424-484

³⁰ Amendment numbers as per [Covert Human Intelligence Sources \(Criminal Conduct\) Bill: Commons reasons and amendments](#)

- Lords amendment 3: providing for eligibility for victims of authorised conduct to compensation under the Criminal Injuries Compensation Scheme;
- Lords amendment 4: providing for additional safeguards for children and vulnerable adults

Lords amendment 5, which would provide for real time notification of CCAs to judicial commissioners, was agreed, but amended to remove a provision which would have required all activities under an authorisation to cease following a determination by a judicial commissioner that it should not have been granted. The Government argued that this provision had potential to put a CHIS at risk, and that a decision to cancel should be taken by the authorising officer, taking account of the operational environment.

4.2 Lord consideration of Commons amendments and reasons

The House of Lords considered Commons amendments and reasons on 9 February:³¹

- Motion A: the removal of Lords amendment 1 was agreed on the basis that the Government committed to including a requirement that the belief be reasonable in the code of conduct;
- Motion B: the removal of Lords amendment 2 was agreed on a division on an amendment moved by Baroness Chakrabarti, by 311 votes to 143;³²
- Motion C: the replacement of Lords amendment 3 with an alternative Government amendment providing for access to the Criminal Injuries Compensation Scheme was agreed;
- Motion D: the replacement of Lords amendment 4 with alternative Government amendments, which would provide for additional safeguards for children and vulnerable adults in a manner the Government considered to be more workable, was agreed;
- Motion E: the Government's amendment to Lords amendment 5 was agreed on a division on an amendment moved by Lord Paddick, by 296 votes to 127.³³

4.3 Outstanding issues

The House of Commons is due to consider the House of Lords amendments in lieu on 24 February 2021.³⁴ These are:

- An alternative to Lords amendment 3, providing for access to the Criminal Injuries Compensation Scheme. The Government considered Lords amendment 3, which would have created an exception to the effect of a criminal conduct authorisation, to be inappropriate. It therefore proposed an alternative Amendment 3B, that would provide for access to the scheme where appropriate.
- An alternative to Lords amendment 4, providing for safeguards for children and vulnerable adults. The Government supported the sentiment of this amendment, but considered aspects of it to be unworkable. It therefore proposed alternative amendments 4B-J. The Minister stated: "These capture the essence of this

³¹ [HL Deb 9 February 2021, cc180-217](#)

³² [Ibid, cc207-209](#)

³³ [Ibid, cc215-217](#)

³⁴ [Covert Human Intelligence Sources \(Criminal Conduct\) Bill: Lords non-insistence and amendments in lieu](#)

amendment and provide significant additional safeguards for the authorisations of these groups, but in an operationally workable form.”³⁵

³⁵ Ibid, c182

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