

Assaults on Emergency Workers (Offences) Bill HL Bill 99 of 2017–19

Summary

The Assaults on Emergency Workers (Offences) Bill is a short, four-clause private member's bill that would strengthen the sanctions available to courts to punish individuals who assault emergency workers. It was introduced in the House of Commons by Chris Bryant (Labour MP for Rhondda) and received cross-party support during its passage through the Commons, including from the Government. The Bill is sponsored by Baroness Donaghy (Labour) in the House of Lords, and is scheduled to receive its second reading on 29 June 2018.

The Bill would introduce a new offence of common assault, or battery, against an emergency worker. This new offence would be triable summarily in the magistrates' court, or on indictment in the Crown Court (trial by jury). The Bill would provide for the offence to be punishable on conviction by a term of imprisonment for up to six months in the magistrates' court, twelve months in the Crown Court, and/or a fine in either court. The Bill would also place a duty on courts to consider more serious assaults committed against emergency workers, including actual and grievous bodily harm, as an aggravated assault on sentencing. The Bill defines an 'emergency worker' to include individuals employed or engaged as police constables; prison officers or prison custody officers; fire, search and/or rescue staff; or persons providing or supporting the provision of NHS health services.

The Bill was amended during its passage through the House of Commons at both committee and report stages. Changes included widening the scope of 'emergency worker' to encompass prisoner custody officers and all those who provide or support the provision of NHS health services; the addition of text to explicitly make the sexual assault of an emergency worker an aggravating factor in sentencing; and the removal of clauses that were in the Bill (as introduced) concerning the taking of intimate and non-intimate samples—such as blood and saliva—from perpetrators of assaults.

Overview of the Bill

Clause 1 of the Assaults on Emergency Workers (Offences) Bill would create a new triable either way offence—that is, an offence triable summarily in the magistrates' court or on indictment (trial by jury) in the Crown Court—of assault or battery committed against an emergency worker.¹ The offence would apply to assaults on emergency workers "acting in the exercise of functions as such a worker", including in cases where the worker was not at work but was "carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker". The offence would be punishable as follows:

- **Magistrates' court:** a prison sentence of up to six months and/or a fine (until such time as Section 154(1) of the Criminal Justice Act 2003 comes into force, after which the court could hand down a prison sentence of up to twelve months).
- **Crown court:** a prison sentence of up to twelve months and/or a fine.²

Clause 2 would create a statutory aggravating factor—that is, a factor that increases the seriousness of the offence—on sentencing for a list of specific offences committed against an emergency worker in the exercise of their functions, whether or not they were at work. The offences to which the statutory aggravating factor would apply include:

- certain offences under the Offences Against the Person Act 1861, including threats to kill, wounding with intent to cause grievous bodily harm, malicious wounding and assault occasioning actual bodily harm;
- an offence committed under section 3 of the Sexual Offences Act 2003 (sexual assault);
- certain common law offences, including manslaughter and kidnapping; and
- ancillary offences in relation to any of the above offences (this would include aiding, abetting, counselling or procuring the commission of the offence, or attempting or conspiring to commit the offence).³

The clause specifies that courts would not be prevented from treating the fact that an offence had been committed against an emergency worker as an aggravating factor in relation to other offences.

Clause 3 defines an emergency worker as meaning:

- a constable, or person (other than a constable) who has the powers of a constable or is otherwise employed for police purposes or is engaged to provide services for police purposes;
- a National Crime Agency officer;
- a prison officer or a person (other than a prison officer) employed or engaged to carry out functions in a custodial institution of a corresponding kind to those carried out by a prison officer;
- a prisoner custody officer or custody officer, so far as relating to the exercise of escort functions;
- fire services or fire and rescue services personnel;
- search and/or rescue services personnel; and
- a person employed for the purposes of providing, or engaged to provide NHS health services, or services in the support of the provision of NHS health services, and whose general activities in doing so involve face to face interaction with individuals receiving the services or with other members of the public.⁴

Clause 4 relates to general matters, including that the Bill would extend to England and Wales only and would come into force two months after receiving royal assent.⁵

Background: Assaults on Emergency Workers and Calls for Change

Legislative Context

In England and Wales, common assault and battery are summary offences punishable by a term of imprisonment of up to six months and/or a fine not exceeding £5,000.⁶ Legislation currently in force also provides for specific offences of assaulting a police constable, a prison officer or an immigration officer.⁷ These offences carry the same penalties as for common assault and battery, and are also triable only in the magistrates' court.⁸ Assaults resulting in a more serious level of injury are usually charged as one of

the general offences against the person provided for in the Offences Against the Person Act 1861, or may be charged as common law offences such as manslaughter or kidnapping in certain circumstances.⁹

The Emergency Workers (Obstruction) Act 2006 introduced offences of obstructing or hindering an emergency worker responding to emergency circumstances, and obstructing or hindering a person assisting such a worker.¹⁰ For the purposes of that Act, ‘emergency workers’ included fire and rescue workers, ambulance personnel and those transporting organs, coastguards, and members of lifeboat teams.¹¹ However, assaults on such workers are ordinarily prosecuted using one of the general criminal offences against the person, such as common assault.¹² The Sentencing Council, an independent, non-departmental public body of the Ministry of Justice, has issued definitive guidelines on assault which state that assaults committed against those working in the public sector or providing a service to the public can be treated as aggravated.¹³ Despite this, it remains the case that there is not currently a specific offence of assault against an emergency worker (including NHS staff) in England and Wales, other than the specific offences relating to police constables or prison officers cited above.¹⁴

In Scotland, the Emergency Workers (Scotland) Act 2005 sets out the penalties for offences against emergency workers committed in that jurisdiction. These include up to twelve months’ imprisonment, a £10,000 fine, or both.¹⁵

Number of Assaults

Authoritative statistics on the number of assaults against emergency workers, as defined in the Bill, are not available. Indicative figures are available from a number of official sources, although it was suggested by a number of MPs during the Bill’s passage through the House of Commons that these could be misleading due to suspected under-reporting of assaults by many emergency workers.¹⁶

Regarding the police, the Home Office has published figures covering 2016/17 based on self-reported data collected by police forces. These data suggested that in that year there were:

- 8,973 assaults involving injury reported to force health and safety teams by officers, and 280 reported by Police Community Support Officers (excluding the British Transport Police);
- 16,531 crimes of “assault without injury on a constable” recorded across all forces (including the British Transport Police); and
- an estimated 24,000 assaults on officers across all forces (including the British Transport Police).¹⁷

The Police Federation, which represent rank and file police officers, has suggested that a higher number of assaults were committed against officers over a similar period. According to the Federation, data from its latest welfare survey suggest that there were “more than two million unarmed physical assaults on [police] officers over twelve months, and a further 302,842 assaults using a deadly weapon during the same period”.¹⁸ It has extrapolated that these data suggest that an assault on a police officer “happens every four minutes”.

Statistics on the number of assaults on prison officers are not routinely published.¹⁹ However, the most recent ‘Safety in Custody’ statistical release from the Ministry of Justice states that the number of assaults on prison staff continues to rise, and has now reached “record highs”.²⁰ It records that there were 8,429 assaults on all prison staff in the twelve months to December 2017. This is up 23 percent

from the previous year, although the release states that a change in the way in which numbers of incidents are recorded has contributed to the increase.

NHS Protect, which collected physical assault figures, recorded that 70,555 assaults were reported by NHS staff in 2015/16, which equated to a rate of 53 assaults per 1,000 staff.²¹ Data on the number of healthcare staff who have reported being physically assaulted is no longer collected centrally.²²

Calls for Change

In February 2017 the House of Commons debated a petition initiated by the LBC radio host Nick Ferrari that called for the Government to “make it a specific criminal offence to attack any member of NHS medical staff”.²³ The petition had formed part of Mr Ferrari’s ‘Guard Our Emergency Medical Services’ (GEMS) campaign and had been signed by 118,056 people at the time it was closed for signatures in May 2017. As part of its response to the petition, the Ministry of Justice stated that “assaults against NHS staff are unacceptable, and already criminalised”.²⁴ It added that if the victim of an assault served the public, the assault was already “treated more seriously”, and contended that a new specific offence would not provide additional protection for NHS medical staff.

During the House of Commons debate on the petition, Sam Gyimah, then Parliamentary Under Secretary at the Ministry of Justice, reiterated the Government’s argument that there were “already comprehensive provisions in criminal law for dealing with a wide range of attacks and assaults” and that these would apply to any victim, “whatever their occupation”.²⁵ He added that, given the current offences framework and sentencing guidance, which made provision for an increase in sentence to be considered where an assault victim was a public sector worker, he was not persuaded that there was a need to create a specific offence for NHS workers in particular. In response, Oliver Dowden (Conservative MP for Hertsmere), a member of the House of Commons Petitions Committee, stated that he hoped the debate would be the “beginning of a process” and that society needed to move to a position in which assaults on NHS workers were seen as “completely socially unacceptable”.²⁶

However, followed growing public interest in the issue of assaults against emergency workers, assisted by the Police Federation’s ‘Protect the Protectors’ campaign and the introduction of a private member’s bill by Holly Lynch (Labour MP for Halifax), by the time the Assaults on Emergency Workers (Offences) Bill was introduced in the House of Commons the Government had been persuaded of the case for supporting a change in the law.²⁷ Sajid Javid, Home Secretary since 30 April 2018, recently reaffirmed that the Government continues to support the Bill.²⁸

House of Commons Stages

Second Reading

The Bill received its second reading in the House of Commons on 20 October 2017, during which it received cross-party support. Many speakers shared details of cases from their constituencies in which emergency workers had been assaulted in the course of performing their duties.²⁹

Chris Bryant, the Bill’s sponsor, opened the debate by making the case for a strengthening of the sanctions available to courts for perpetrators of assaults on emergency workers. He explained that he had chosen to introduce a private member’s bill on this issue following a survey of his constituents in Rhondda and the wider public, in which more than 40,000 had participated.³⁰ He then summarised the

main provisions in the Bill as follows:

- Clause 1 of the Bill would, in effect, “double the maximum sentence available for assault or battery of an emergency worker”.
- Clause 2 of the Bill would, in effect, “put an assault perpetrated against an emergency worker on a legal par with a hate crime”.
- Clause 3 would define an emergency worker, although he noted that the clause would require refinement at a later stage.³¹

Louise Haigh, Shadow Minister for Policing, spoke in support of the Bill on behalf of the Labour Party, and Sam Gyimah, then Parliamentary Under Secretary at the Ministry of Justice, stated that the Government supported the Bill, noting that the “public voted in an online poll to support this Bill, and it is therefore important that we deliver it”.³²

Committee Stage, Report Stage and Third Reading

A Public Bill Committee considered the Bill during a single sitting, which took place on 15 November 2017.³³ The Committee amended clause 3 to broaden the definition of an emergency worker to include prisoner custody officers and custody officers, so far as relating to the exercise of escort functions, and all persons employed or engaged for the purposes of providing or supporting the provision of NHS health services.³⁴ The latter change widened the previous wording, which had restricted the definition of an emergency worker in the health field to persons employed or engaged to provide ambulance services, accident and emergency department services or urgent treatment centre services. The Committee also removed clause 7, known as an expenses clause, which was included at the time of the Bill’s publication because it was not then clear whether a money resolution would be required, but had since been deemed unnecessary based on information provided by the Government.³⁵

The Bill underwent further changes during its report stage, which took place on 27 April 2018.³⁶ The House debated a number of proposed new clauses and amendments, many proposed by Philip Davies (Conservative MP for Shipley), a formal supporter of the Bill. However, following debate, Rory Stewart, Minister of State at the Ministry of Justice, indicated that the Government would support one amendment—that proposed by Chris Bryant and others to clause 2 relating to the inclusion of sexual assault against an emergency worker as an aggravating factor. This amendment was made, as were amendments moved by Chris Bryant removing clauses 4, 5 and 6 from the Bill (as introduced) relating to the taking of samples such as saliva and/or blood, following confirmation from the Government that spitting constituted common assault or battery.³⁷

Following report stage, MPs reiterated their support for the Bill during its third reading. This included Louise Haigh, speaking for the Opposition, and Rory Stewart, speaking on behalf of the Government.³⁸

Further Information

- UK Parliament website, [‘Assaults on Emergency Workers \(Offences\) Bill 2017–19’](#)
- House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018

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- ¹ [Explanatory Notes](#), p 7; and Thomson Reuters Practical Law, ‘[Either-way Offence](#)’, accessed 9 May 2018.
- ² [Explanatory Notes](#), p 7; and House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018, p 14.
- ³ [Explanatory Notes](#), pp 7–8; and House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018, p 15.
- ⁴ [Explanatory Notes](#), p 8.
- ⁵ The National Assembly for Wales has passed a legislative consent motion, consenting that the provisions in the Bill, in so far as they fall within the legislative competence of the National Assembly, should be considered by the UK Parliament (National Assembly for Wales, ‘[Agenda and Minutes: 27 February 2018](#)’, accessed 9 May 2018).
- ⁶ [Explanatory Notes](#), p 7; Criminal Justice Act 1988, s 39; and Criminal Justice Act 1982, s 37.
- ⁷ House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018, p 3. See also: Police Act 1996, s 89; Prisons Act 1952, s 8; and UK Borders Act 2007, s 22.
- ⁸ *ibid.*
- ⁹ *ibid.*; and [Explanatory Notes](#), p 8.
- ¹⁰ House of Commons, ‘[Written Statement: Emergency Workers \(Obstruction\) Act 2006 Post-Legislative Scrutiny](#)’, 5 March 2012, col 54WS.
- ¹¹ *ibid.*; and Emergency Workers (Obstruction) Act 2006.
- ¹² House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018, p 5.
- ¹³ Sentencing Council, [Assault: Definitive Guideline](#), 16 March 2011, p 25; and ‘[Magistrates’ Court Sentencing Guidelines: Common Assault/Racially or Religiously Aggravated Common Assault](#)’, accessed 9 May 2018.
- ¹⁴ House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018, pp 3–7.
- ¹⁵ *ibid.*, p 7.
- ¹⁶ [HC Hansard, 20 October 2017, cols 1103–57](#).
- ¹⁷ Home Office, [Statistics on the Number of Police Officers Assaulted in 2016/17: England and Wales](#), 20 July 2017. Note: the Government has stated that these data are not National Statistics. This is due to known limitations, including that the data are based on non-compulsory self-reporting by officers and inconsistencies on how data are collected across forces.
- ¹⁸ Police Federation, ‘[Protect the Protectors](#)’, accessed 9 May 2018.
- ¹⁹ House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018, p 8.
- ²⁰ Ministry of Justice, [Safety in Custody Statistics: England and Wales](#), 26 April 2018, p 1.
- ²¹ House of Commons Library, [Assaults on Emergency Workers \(Offences\) Bill 2017–19](#), 25 April 2018, p 9.
- ²² House of Commons, ‘[Written Question: NHS: Crimes of Violence](#)’, 9 February 2018, 126516.
- ²³ UK Government and Parliament websites, ‘[Petition: Make it a Specific Criminal Offence to Attack any Member of NHS Medical Staff](#)’, accessed 9 May 2018.
- ²⁴ *ibid.*
- ²⁵ [HC Hansard, 27 February 2017, col 19WH](#).
- ²⁶ *ibid.*, col 22WH.
- ²⁷ [HC Hansard, 20 October 2017, cols 1103–57](#).
- ²⁸ Home Office, ‘[Home Secretary Police Federation Speech 2018](#)’, 23 May 2018.
- ²⁹ [HC Hansard, 20 October 2017, cols 1103–57](#).
- ³⁰ *ibid.*, col 1109.
- ³¹ *ibid.*, col 1111.
- ³² *ibid.*, cols 1150–7.
- ³³ [Public Bill Committee, Assaults on Emergency Workers \(Offences\) Bill, 15 November 2017, session 2017–19, 1st sitting, cols 1–18](#).
- ³⁴ *ibid.*, cols 9–14.
- ³⁵ *ibid.*, cols 3–4.
- ³⁶ [HC Hansard, 27 April 2018, cols 1142–203](#).
- ³⁷ *ibid.*
- ³⁸ *ibid.*, cols 1203–16.
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