

Criminal Justice and Courts Bill

Fact sheet: amendments to section 1 of the Malicious Communications Act 1988

Introduction and current position

1. At Committee Stage in the Commons, the Government accepted an amendment by Angie Bray MP. This new clause makes the offence in section 1 of the Malicious Communications Act 1988 a triable either way offence, and increases the maximum penalty to two years' imprisonment.
2. The offence in section 1 of the Malicious Communication Act 1988 of sending certain items with intent to cause distress or anxiety is currently summary only offence which means that it can only be dealt with in the Magistrates' Court. The Magistrates' Courts have lower penalties available to them - the maximum custodial sentence for an offence under section 1 of the 1988 Act is six months imprisonment; as a summary only offence prosecutions must be brought within six months.

What are the proposed changes?

3. This clause amends section 1 of the Malicious Communications Act 1988 to make the offence under this section triable either way. This would mean that a case under section 1 could be dealt with in either the Magistrates Court or the Crown Court. It also provides for an increased maximum penalty on conviction of the offence when tried on indictment of up to two years' imprisonment, or an unlimited fine, or both. In addition, either-way offences are not subject to the 6 month prosecution time limit which applies to summary only offences.
4. The changes would allow more time for prosecutions to be brought, responding to representations made to Ministers that the six-month time limit which currently applies to this offence hampers police investigations into internet related offences that might be charged under section 1. The higher maximum penalty would also help to ensure that the penalty proportionately reflects the seriousness of the crime in appropriate cases.