

Investigatory Powers Bill Second Reading Briefing – PRESS FREEDOM

The News Media Association is the voice of national, regional and local news media organisations in the UK publishing over 1100 titles read by 47 million adults every month in print and digital.

The Investigatory Powers Bill is of acute concern to the press. It enshrines the use of sweeping investigatory powers, enabling the shadowing of any journalistic investigation and the exposure of any confidential source. Yet it still lacks robust freedom of expression safeguards, contrary to the wider public interest.

Stronger safeguards are essential. A source fearing disclosure of their identity will not risk contacting a journalist with important information in the public interest. That chilling effect stops the powerful from being held to account. Local and national newspapers have direct experience of the past misuse of RIPA powers against their journalists and their sources. It is vital that the new regime embeds effective protection in its statutory framework.

The NMA and other media organisations have proposed practical safeguards to be put on the face of the Bill, modelled upon existing statutory and procedural journalistic protections, underpinned by established legal principles and precedent. These would require prior judicial approval for use of any of the investigatory powers, with prior notice to be given to the media of the application, a robust set of freedom of expression conditions for the applicant to satisfy and the media's right to participate in the hearing of the application before an independent judge, with rights of swift appeal. These safeguards should apply to any authorisation of the various investigatory powers set out in the Bill and RIPA in relation to journalistic activities and sources.

The inclusion of such journalistic protections in the Bill has been repeatedly recommended by Parliamentary Committees from both Houses and supported across the political spectrum. It was recommended from the outset, by the Joint Committee carrying out pre-legislative scrutiny on the draft Bill and, most recently, by the Joint Committee on Human Rights. Succinct amendments have been put forward at every stage of the Bill's passage through the House of Commons by the Opposition, the SNP and the Liberal Democrats.

The Government has acknowledged in the final stages of the Bill before the House of Commons that journalists serve a public interest - 'the vital importance of freedom of expression in our society, freedom of speech, freedom of thought, and that vital aspect of journalism, the non-disclosure of the source of journalists' material'. Ministers committed to further consideration of further protections. They said that a solution must be found, in consultation with the media. We believe that the Government must act and adopt the safeguards that the media has proposed. The media is united on the changes that must be made to the face of the Bill. We hope that the House of Lords will urge the Government to amend the Bill in this way to ensure proper protection of journalists and their sources in the service of the wider public interest.

The NMA and other media organisations are very willing to discuss the necessary changes in more detail or provide more information. Please let us know if you would find this helpful.

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