

PROPOSALS FOR THE REFORM OF THE COMPUTER MISUSE ACT 1990: PROJECT FRAMEWORK DOCUMENT

1. INTRODUCTION

- 1.1 Evolution
- 1.2 Purpose of the legislation
- 1.3 Fit for purpose?
- 1.4 Inter-relationship with other legislation (eg Data Protection Act 1998, Investigatory Powers Act 2016)
- 1.5 Inter-relationship with other offences and charging decisions (including level of decision-making, in particular in relation to s 3ZA “national security” offences)
- 1.6 Defences
- 1.7 Sentencing policy

2. INTERNATIONAL CONTEXT

- 2.1 Conventions and compliance with international obligations
- 2.2 Comparative law analysis
- 2.3 Implications of “Brexit”

3. REFORM

A. The offences

- A.1 Existing offences
- A.2 The case for repeal and/or amendments to provide for new offences
- A.3 The need to address corporate responsibility and what this means (ie supplier, software liability etc)
- A.4 Attorney General authority for national security offences

B. The Defences

- B.1 Public interest (in particular the Dutch model as a comparative model)
- B.2 Specific defences:
 - journalistic purposes
 - commercial purposes (integrity/security testing)

- research
- consent
- whistle-blowing (although probably falls within B.1)
- B.3 The DPA 1998 and other examples as models for the application of defences
- B.4 Burden of proof

C. Sentencing

- C.1 Nature and scope of reform
- C.2 Approaching “damage” for the purposes of s 3ZA, in particular in national security cases
- C.3 Offence or sentence led reform?

D. CPS policy reform

- D.1 How this might be informed by Bath University or other research on autism and cybercrime
- D.2 Approach to neural-divergent defendants
- D.3 Charging decisions

E. Civil liability, penalties and remedies

- E.1 The case for civil sanctions
- E.2 Form and structure
- E.3 Enforcement
- E.4 Appeals

4. APPENDICES

- 4.1 Proposed amendments to the legislation
- 4.2 Proposed sentencing guidelines
- 4.3 Proposed revised CPS guidance