PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

POLICING AND CRIME BILL

Sixth Sitting

Tuesday 12 April 2016

(Morning)

CONTENTS

Clauses 40 to 90 agreed to, some with amendments.
Clause 91 under consideration when the Committee adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor's Room, House of Commons,

not later than

Saturday 16 April 2016

The Committee consisted of the following Members:

Chairs: † Mr George Howarth, Mr David Nuttall

† Berry, Jake *(Rossendale and Darwen)* (Con)
† Berry, James *(Kingston and Surbiton)* (Con)
† Bradley, Karen *(Parliamentary Under-Secretary of State for the Home Department)*
† Brown, Lyn *(West Ham)* (Lab)
† Caulfield, Maria *(Lewes)* (Con)
† Cleverly, James *(Braintree)* (Con)
† Davies, Mims *(Eastleigh)* (Con)
† Dromey, Jack *(Birmingham, Erdington)* (Lab)
† Elphicke, Charlie *(Lord Commissioner of Her Majesty's Treasury)*
† Harris, Carolyn *(Swansea East)* (Lab)
Jones, Gerald *(Merthyr Tydfil and Rhymney)* (Lab)
† Jones, Mr Kevan *(North Durham)* (Lab)
Milling, Amanda *(Cannock Chase)* (Con)
† Penning, Mike *(Minister for Policing, Fire, Criminal Justice and Victims)*
† Saville Roberts, Liz *(Dwyfor Meirionnydd)* (PC)
† Smith, Jeff *(Manchester, Withington)* (Lab)
† Whittaker, Craig *(Calder Valley)* (Con)

Ben Williams, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 12 April 2016

(Morning)

[Mr George Howarth *in the Chair*]

Policing and Crime Bill

Clauses 40 to 49 ordered to stand part of the Bill.

Clause 50

Section 49: consequential amendments

9.25 am

The Minister for Policing, Fire, Criminal Justice and Victims (Mike Penning): I beg to move amendment 148, in clause 50, page 60, line 18, at end insert—

"(8) In the Criminal Justice Act 2003—

(a) in section 24A(5)(b) (purposes for which person may be kept in police detention) for "section 37D(1)" substitute "section 47(4A)", and

(b) in section 24B(5) (application of provisions of the Police and Criminal Evidence Act 1984)—

(i) omit paragraph (a), and

(ii) in paragraph (c) at the end insert "except subsections (4D) and (4E)"."

This amendment is consequential on the changes made in clause 50. It relates to persons who are arrested because they are believed to have failed to comply with conditions attached to a conditional caution.

The Chair: With this it will be convenient to discuss the following:

Government new clause 3—*Release without bail: fingerprinting and samples*.

Government new clause 4—*Release under section 24A of the Criminal Justice Act 2003*.

Government new clause 5—*Duty to notify person released under section 34, 37 or 37CA of PACE that not to be prosecuted*.

Government new clause 6—*Duty to notify person released under any of sections 41 to 44 of PACE that not to be prosecuted*.

New clause 48—*Scrutiny of investigatory capabilities*—

"(1) Police and crime plans produced under Chapter 3 of Part 1 of the Police Reform and Social Responsibility Act 2011, must include an annual assessment of the capability of the police to properly investigate crimes within the 28-day pre-charge bail time limit.

(2) The assessment must consider any—

(a) changes to the number of suspects released without bail,

(b) resource constraints, including staff numbers,

(c) safeguarding requirements of victims, witnesses and suspects, and

(d) issues around multiagency work."

This new clause would make it mandatory for Police and Crime Commissioners to produce an annual assessment of the capability of police forces and other agencies to meet the mandated 28 day pre-charge bail limit.

New clause 49—*Cooperation of relevant agencies in investigations*—

"(1) The Secretary of State may by regulations require relevant agencies to cooperate promptly with police in carrying out investigations of suspects.

(2) Relevant agencies may include, but are not limited to—

(a) the Crown Prosecution Service,

(b) forensic examiners,

(c) health authorities, and

(d) banks and financial institutions.

(3) Alongside any additional duty to cooperate, the Home Secretary must carry out an assessment of the relevant agency's resource capacity to provide relevant information or services within the 28 day limit for cases where suspects are released on pre-charge bail."

This new clause would allow the Home Secretary to mandate cooperation of relevant agencies with police forces in conducting investigations, and would allow for scrutiny of whether relevant agencies have the necessary capacity and resource to cooperate within the required length of time.

Mike Penning: Briefly, the Government amendments and new clauses in this group are consequential, to ensure that we tidy up any loose ends. I know that the shadow Minister will speak in a moment to new clause 48 and, if I may, I will respond to his concerns when he has done so.

Jack Dromey (Birmingham, Erdington) (Lab): Let me say at the start that we agree with the principle of what the Government are seeking to achieve. We want to raise issues of practicality that were cited, for example, in the evidence given to the Committee by both the National Police Chiefs Council and the chief superintendents.

New clause 48 would make it mandatory for police and crime commissioners to produce an annual assessment of the capability of police forces and other agencies to meet the mandated 28-day pre-charge bail limit. I stress again, as we said on Second Reading, that reform of police bail is absolutely overdue. The current system has been criticised from both sides, on the grounds that it unfairly leaves people under investigation for long periods before they have even been charged for an offence and that it does not offer the necessary safeguards in the cases of people who pose more of a risk to the public. I will say more on that later.

A more targeted approach is therefore needed that does not unfairly restrict the liberty of people whose guilt is far from proven but that has teeth when it needs to. The case of Paul Gambaccini is a stark example of why the system has to change. We are in complete agreement that we need a common-sense approach to cases in which people have been on bail continuously but no evidence is found. Investigations need to be conducted swiftly and fairly, yet a 2013 BBC freedom of information request, to which 40 police forces responded, found that 71,256 people were on pre-charge bail and 5,480 had been on bail for more than six months. Our concern is that the Government are mandating a 28-day pre-charge bail limit, the aim of which is welcome, but are not addressing the root causes of delays in investigations.

Let us start with the key problem with cases such as that of Paul Gambaccini: individuals who are suspected of a crime but who are not ultimately charged can be under investigation for a long time before a decision not

to charge is reached. As we are well aware, that can have a hugely negative impact on the lives of suspects and their families, and in cases where charges are brought and suspects are eventually found guilty, we do not want a system that involves prolonged periods before victims see any kind of justice. We therefore need to tackle why these investigations take so long.

Alongside the measures contained in this Bill, the Government need to have a careful look at where the system can be improved, where extra capacity is needed and what impact reductions in resources are having. For example, Home Office workforce figures show that 40,000 police jobs were cut between 2010 and 2015, with a 30% cut in police community support officers, 20% fewer police staff jobs and 13% fewer police officers. The police are therefore juggling carrying out investigations with patrols, immediate response to emergency incidents and life-saving preventive work. Resources will inevitably have an impact on how quickly police forces can get things done and how able they feel to prioritise investigative work.

Do the Government have any considered idea of what impact resource reductions are having on the capability of forces to carry out timely investigations? What resources will be required under this clause? For example, as regards a super structure of police superintendents to oversee the changes proposed by the Government, the point has been made very strongly by the chief superintendents that it would take out several of their number whose job it would be to supervise the new arrangements that the Government seek to put in place. Crucially, our amendment would require an assessment of this question by police and crime commissioners themselves.

Similarly, cuts to the Crown Prosecution Service and to other agencies are being seen to have a knock-on effect, and I will come back to that point shortly. We do not want the outcome of these proposals to be simply that more people are released not on bail. Chief Constable Alex Marshall noted in his evidence to the Committee that, according to the College of Policing's bail pilot, early indications of the data were that 70% of those released on pre-charge bail

"were bailed for more than 28 days."

This was because officers were waiting, while

"getting professional statements from doctors and others, getting phones and computers analysed, taking detailed statements from vulnerable victims of crime, getting banking information and details, and getting forensics analysed".

He went on:

"We agree that the time limits should be closely monitored…The onus will rest on many people across the system to respond much more quickly to requests from the police conducting their investigation."—[*Official Report, Policing and Crime Public Bill Committee,* 15 March 2016; c. 78, Q45.]

He is absolutely right. We do not want a situation in which, due to factors beyond their control, police have no choice but to release not on bail in order to meet the time limit. Clearly, in cases where bail conditions play a necessary role in safeguarding, this would have serious consequences for victims, witnesses and the general public.

In the Government's consultation, suggestions from respondents included consideration of the needs of the victims of crime, including safeguarding requirements and special interview requirements. The need to safeguard complex investigations was also raised. Early indications of the College of Policing's pilot were that, of the 950,000 arrests in a year, about 30% were released on pre-charge bail. If that starts to change dramatically, and many more people are released not on bail due to the proposals in the Bill, the Government will have to reflect on and address that. That is why the part of this amendment that requires an assessment of any changes in the number of people released not on bail is so important. Alex Marshall's comments relate very closely to new clause 49 and the issue of third-party delays preventing police officers from taking critical decisions within the required timeframe in an investigation.

This amendment would allow the Home Secretary to mandate co-operation of relevant agencies with police forces in conducting investigations, and would allow for scrutiny of whether relevant agencies have the necessary capacity and resource to co-operate within the required length of time. The Crown Prosecution Service, forensic examiners, health authorities, banks and financial institutions, to name but a few, are all third parties that the police rely on in the preparation of a case, so the Government's proposals in the Bill address only one part of the investigatory process.

In the Government's own consultation on the proposal, they found that the most commonly raised suggestion was that matters outside police control should be taken into account, such as Crown Prosecution Service timescales, forensic examinations—including digital—and international inquiries.

In the 119 responses—or 40% of those who responded—highlighting the resource implications of each model, the most commonly raised issues were on the need for increased resources, including greater staff numbers. As Committee members will be aware, a number of pieces of existing legislation impose statutory duties on third parties to provide reports or information within a set timeframe, such as the Coroners and Justice Act 2009, the Coroners (Investigations) Regulations 2013, the National Health Service Act 2006 and the Female Genital Mutilation Act 2003. However, as we have argued with pre-charge bail limits, the Government must not just mandate co-operation by third parties, they must also assess the relevant agencies' capacity and, crucially, take a proactive approach to ensuring that agencies have the tools at their disposal to provide relevant information or services within the limit. For example, when consulted on the proposals, the Ministry of Justice highlighted concerns that the numbers of cases that would fall to be considered in the Crown court will exceed the available capacity in Crown court centres. Further to that, the Government proposed to have all pre-charge bail hearings dealt with in the magistrates court. I would be interested in the Government's assessment of the capacity of magistrates courts and the ability of the Ministry of Justice to accommodate the projected costs of the additional hearings.

The Government need to listen on this important issue. In principle, they are doing the right thing in terms of the direction of travel, but they need to listen to the widespread concerns about the practicalities of implementing their proposals; they need to listen to what the police and other agencies are telling them about the major constraints on timely investigation, address those constraints and take a comprehensive approach to scrutinising the role of all agencies in the

[Jack Dromey]

investigatory process, including, but not limited to, the police. That is what these two new clauses seek to achieve, and I urge the Government to take further action in parallel with their proposals in the Bill.

Mike Penning: May I say at the outset that I acknowledge and understand where the shadow Minister is coming from, even though I disagree on the need for the new clauses? We acknowledge that the new system will put pressures on the forces. We accept that, but at the moment we have a situation where the police can have unlimited police bail. That is unacceptable. We have consulted, listened carefully and 28 days should be the marker going forward. Of course, a superintendent or above can authorise extensions, and magistrates can authorise beyond that. We absolutely accept that the police will need more time in some complex cases and where the crime changes, but they have to explain why, unlike in the present system.

Whether and how the new system is working will be assessed by Her Majesty's inspectorate of constabulary within its police effectiveness, efficiency and legitimacy reviews. That is a robust system. I do not think there is a PCC or chief constable in the country who would argue that Tom Winsor's regime is not fair and robust. Sometimes they say to me that it is not fair and robust—but it is independent, it is there, and that is exactly right. We will keep the need for further reporting under review, but I do not want to put further bureaucracy on to the PCCs.

I fully understand the inter-agency point. We need to break down the silos so that we work more closely together. However, the shadow Minister referred to the consultation in his comments; a clear majority—two thirds—of consultation responses were in favour of establishing memorandums of understanding between the agencies rather than a statutory review. That is what the consultation said, and that is why we have gone down this route rather than the statutory one. I say again that we will keep that under review—but if there is a consultation where two thirds respond in favour of one way, and they are then completely ignored in favour of the statutory route, they will argue, "What is the point of a consultation?".

It is so early in the morning to disagree already, but although I understand where the shadow Minister is coming from, the Government, sadly, do not feel the need for new clauses 48 and 49.

Jack Dromey: First, the Police Minister is right to be frank: this set of proposals will put pressure on not just the police but a whole range of other agencies. I note what he said of Her Majesty's inspectorate of constabulary and its PEEL reports, and I add that the College of Policing and the Home Affairs Committee will keep this matter under review. I also welcome the proposed memorandum of understanding so that we can make the new system work. On that basis, and given those assurances, we will not press our amendments to a vote.

Amendment 148 agreed to.

Clause 50, as amended, ordered to stand part of the Bill.

Clauses 51 to 59 ordered to stand part of the Bill.

Clause 60

RESTRICTIONS ON PLACES THAT MAY BE USED AS PLACES OF SAFETY

Mr Kevan Jones (North Durham) (Lab): I beg to move amendment 157, in clause 60, page 68, line 29, at end insert—

"( ) Before a house, flat or room where a person is living is used as a place of safety the patient must first be offered one of the following locations as an alternative place of safety—

(a) a residential accommodation provided by a local social services authority under Part III of the National Assistance Act 1948 or under paragraph 2 of Schedule 8 to the National Health Service Act 1977;

(b) a hospital as defined by the Mental Health Act 1983; or

(c) a mental health care home."

This amendment would require that a patient was offered a health-based place of safety as an alternative to their, or someone else's, home being used as a place of safety.

The Chair: With this it will be convenient to discuss the following:

Amendment 159, in clause 61, page 69, leave out lines 31 to 38 and insert—

"the point at which the decision is taken to remove a person to a place of safety, or keep them at the current place of safety."

This amendment would mean that the permitted period of detention started when the decision was taken to remove a person to a place of safety, rather than the point at which they arrived at the place of safety.

Amendment 158, in clause 61, page 69, line 31, leave out "24" and insert "12".

This amendment reduces the permitted period of detention to 12 hours.

Government new clause 28—*Protective searches: individuals removed etc under section 135 or 136 of the Mental Health Act 1983.*

New clause 11—*Detention in places of safety: annual reporting*—

"(1) Police forces in England and Wales must publish an annual report containing statistics on the usage of the power to detain a person in a place of safety.

(2) This report shall contain, but need not be limited to, information on—

(a) the number of detentions;

(b) the age of detainees;

(c) the length of detention; and

(d) the location of the detention."

This new clause would require police forces to report annually on the number of detentions in places of safety, including information on the age of the detainee and the location and duration of the detention.

New clause 12—*Access to Independent Mental Health Advocates*—

"(1) A person detained in a place of safety under section 135 or 136 of the Mental Health Act 1983 shall have the right to an independent mental health advocate (see section 130A of the Mental Health Act 1983)."

This new clause would extend the right to an independent mental health advocate to those detained under sections 135 or 136 of the Mental Health Act 1983.

New clause 50—*Powers under the Mental Health Act 1983: reporting and review*—

"(1) One year after section 59, 60 and 61 of this Act come into force the Secretary of State must lay before parliament a report on the impact of the changes to powers under the Mental Health Act 1983 on mental health assessment and outcomes.

(2) This report shall contain, but need not be limited to, information on—

(a) length of time taken from commencement of mental health assessment of an individual under sections 135 or 136 of the Mental Health Act, to either the discharge, admittance to hospital or extension of period of detention of these individuals,

(b) availability of trained medical professionals to carry out assessments, and

(c) availability of hospital beds for persons deemed to require inpatient care.

(3) In producing this review the Home Secretary must consult the Secretary of State for Health."

This new clause would make it mandatory for the Home Secretary to report on the impact of Section 59, 60 and 61 on mental health assessment and outcomes. This would allow for scrutiny of whether the proposals improve the outcomes for those subject to police detention and mental health assessment, and whether health providers have the capacity to carry out timely assessments and provide any necessary inpatient care.

Mr Kevan Jones: It is a pleasure to serve under your chairmanship, Mr Howarth. I have said in Committee, and on the Floor of the House, that I recognise that the Government are trying to make progress on ensuring that the way in which people with mental illness are treated by the police is both compassionate and secures them the help that they deserve. The problem that is evident today, and will be as the Bill continues its journey through this House and the other place, is that although the Home Department is trying to improve the situation, the elephant in the room is the resources and activities of the Department of Health. This is an area in which two Departments are intertwined, because the issues are quite clearly not, in essence, a police matter, although the police are left to resolve the problem.

Amendment 157 recognises that the Government have tried to emphasise that a police cell is the worst place for not only a young person but an adult. I commend the Government's initiative in trying to ensure that few adults, and certainly no children, are detained in a police cell. We have to ask why they are currently detained, which is—I am going to be very political—because of the reduction of beds and facilities by the Department of Health. I have tabled amendment 157 because the Government, quite helpfully, have no objection to a place of safety, under the Mental Health Act 1983, being someone's flat or home, because that is a place in which those individuals can be supported by mental health services and other agencies. That is important. The problem is that it might become the default position that people are forced to stay in their homes if an alternative is not available. I put it to the Committee that most of us, given the choice between staying at home or being in a police cell, would stay at home. However, that does not guarantee that home is the best place of safety.

9.45 am

The aim is to help the Minister put some pressure on health service colleagues to ensure alternative provision. It is no good if those individuals are clearly in crisis and the only option is to stay at home, which might be unsatisfactory for the individual and family members, or go to a police cell, which nobody wants. It is a probing amendment, hoping to get some joined-up thinking.

As the Bill proceeds through this House to the next, we need some movement from the Department of Health on how they will join up with the initiatives that the Minister has rightly taken to ensure that people with mental illness do not end up in police cells.

James Berry (Kingston and Surbiton) (Con): The hon. Gentleman makes a good point and speaks with authority on the subject. Does he recognise that there are some excellent local examples of clinical commissioning groups working well with the police? In Kingston we have a new project where the mental health trusts, the clinical commissioning group and the Met police have come together to provide just the kind of facility we are talking about. Although there is more to do nationally, there are some good local examples of the policy working.

Mr Kevan Jones: I agree with the hon. Gentleman. One of the few good things that came out of the Health and Social Care Bill was that it allowed local providers to develop contracts out of the box, perhaps with the third sector and others, to provide good local services. I am on record as having said that. I have to say that in my own area and nationally that has not happened in practice because unfortunately the default position is that the contracts that have been awarded are so large that a lot of small, good voluntary organisations that could provide those services are not getting a look in.

The hon. Gentleman makes a good point about the project in his constituency, but we need to ensure that there is uniformity across the piece. If we have a situation where the only option is for people to go to a police station or stay at home, that is not satisfactory.

Amendment 159 is also probing, aiming to explore and again bring pressure on the Department of Health. With regard to the time limits put in place around the place of safety, it is important that people are assessed quickly. It is no good waiting, in a police cell, hospital or any other facility, for a long time without assessment.

When being removed to a place of safety, it is important that the assessment is made quickly and undue time limits are not in place, for example, if someone has to travel a long distance to access a service. At the point of detention, a decision would start with the removal of the individual, certainly in terms of Lord Crisp's report for the Commission on Acute Adult Psychiatric Care. That gives examples of people having to travel up to 50 km to access a mental health bed. If that were done in the back of a police car or van, it could take a long time and add to that individual's distress. Again, I want to get the Minister's thinking; I do not think for one minute that she wants anyone to be detained for an unduly long time without assessment. We are probing to find out what the Government are thinking in terms of trying to put pressure on the services that provide assessments. Can we get intervention at an earlier stage?

Amendment 158 is linked to the previous amendment and is another probing amendment. I welcome the reduction from 72 to 24 hours, showing again that the Government want to improve the situation. This probing amendment would further reduce the time from 24 to 12 hours. I would like to understand the Government's rationale for agreeing to 24 hours. Under existing and proposed legislation, if someone is clearly incapable of assessment, that period can be extended. The Royal

[Mr Kevan Jones]

College of Psychiatrists has a target of three hours for someone to be assessed. I accept that there are difficulties: for example, if someone is intoxicated or has some other issue, with drugs or anything else, an assessment may not be possible for a long time, but I think that 24 hours is too long.

I have tabled these amendments to assist the Minister to press her Health colleagues to push the boundary. I accept what the hon. Member for Kingston and Surbiton said about some excellent local provision. We do need a uniform service, but it would be completely wrong for individuals to be detained longer than necessary. I would not, for one minute, suggest that any healthcare professional, police officer or the Government, for that matter, want to detain people. Early diagnosis and assessment are in the interest of the individual and help to ensure an efficient use of time.

Let me deal with new clauses 11 and 12. I may push new clause 11 to a vote because it is important. One fear I have is that we have before us a Home Office Bill which deals with the problem faced by police forces up and down the country of people being detained under the Mental Health Act. The right aim of the Home Secretary is to ensure that no one is detained in a police cell. Certainly, her target for young people is welcome and she clearly wants to get to a position whereby no adult is detained in a police cell either. The problem I have with that is that we may achieve the target in terms of the police—a police authority or a police and crime commissioner may be able to stand up and say, "We have nobody in police cells who has been detained under the Mental Health Act", but unless we have some indication of what has actually happened to those individuals, it could mask a problem. It could move away from the clear spotlight that has been put on this, certainly in terms of young people being detained in police cells.

If the answer to the written question that we ask every year is that nobody is being detained in police cells, that is good, but if people are languishing in the community without support, or are unable to access the treatment that they want, that would let the Department of Health—again, not the Home Office—off the hook in terms of its responsibility to those individuals. It is important that we have reliable statistics, because we need to see where there are pressures, which there certainly are. Having talked to my local police force, I know that forces throughout the country are dealing with a lot of mental illness problems that they are not qualified to deal with. The system has failed when people with such problems turn up in police cells, so we need to address that.

I feel passionately about new clause 12, because, very strangely, the only people who are not allowed advocates under the Mental Health Act are people who are sectioned under section 135 or 136. I am not sure why that was agreed when that Act passed through this place. It may have been to do with cost, and I understand that if we offer everyone who is sectioned an advocate, costs will be incurred, but we are talking about ensuring that people with mental illness are given the right approach and support. If someone is arrested for any other crime, they should have an advocate to speak on their behalf. Many people think that those with mental illness will have family members or others to help them, but there are clearly individuals who do not, so there is no one there to speak on their behalf. There are also individuals who go into crisis whose family members have never experienced anyone with mental illness and so will not know the right questions to ask or the rights of the individual.

The need for an advocate is particularly relevant to the issue I mentioned earlier: the home becoming a place of safety. Is someone really going to object to their home becoming the "place of safety" if they have no one to advocate for them or understand their position? I do not think they would. The default position would be that the easiest option is to stay at home, even though it might not be the best option for some individuals, so advocacy is very important.

As I said on Second Reading, sections 135 and 136 are unique powers that are, quite rightly, not used lightly. They are used to protect either the individual themselves or the people who might be in danger from their actions, but that still leads to people's liberties being taken away from them. If the default position in this country is that someone who is arrested for a crime is entitled to legal representation, it is not too much to ask in this day and age that people who are detained—we are not talking about a massive number of cases—should at least, within a permitted period, be allowed an advocate to speak on their behalf and advise them. Properly done, that may well save time and money by ensuring that the individual takes the advice they are offered and by allowing the system—the police and health services—to ensure that that person is directed to the help they require.

The Chair: As I understand it, the hon. Gentleman has expressed his intention to press new clause 11 to a Division.

Mr Kevan Jones: New clauses 11 and 12.

The Chair: It might be helpful to the Committee if I point out that although both new clauses can be debated at this point, any Divisions will come later when we deal with new clauses.

10 am

Jack Dromey: I pay tribute to my hon. Friend the Member for North Durham, who is a brave and doughty champion of those who have suffered from mental illness. There is no question but that real progress has been made in recent years, and he can take credit for the outstanding role that he has played in that process, which we see the benefits of in our constituencies and across the country.

I have seen non-custodial places of safety at the Oleaster suite in Birmingham and in the form of street triage arrangements around the country, including one team of three outstanding police officers in the east midlands. One of them took me to one side and said, "I'm passionate about what I do because my brother was diagnosed as a paranoid schizophrenic eight years ago. I've supported him; I now want to support others like him." The Home Secretary is absolutely right to say that a police cell is no place for an ill person. I therefore completely support everything that my hon. Friend the Member for North Durham has said.

I want to speak only to new clause 50, although we support what has been said in respect of new clauses 11 and 12 and I will briefly refer to them. In our country there is a right to be represented, and that is all the more important in circumstances where there is a vulnerable individual—often one who is going through a terrible trauma in their life—who requires the support and advice that an independent representative or advocate can give. We therefore strongly support what my hon. Friend has said in respect of new clauses 11 and 12.

Returning to new clause 50, I will take this opportunity to repeat the concerns that were expressed across the House on Second Reading—the debate on these issues was excellent—and the concerns of medical professionals and the police. Although we welcome the objective of the proposals, the combination of the changes could put professionals in a difficult position. Assessments of those detained under the Mental Health Act 1983 cannot be completed until a bed has been identified. Professionals should not have to choose between breaking the law by exceeding the 24-hour period if a bed cannot be identified and not breaking the law but releasing someone who should be detained. Yet HMIC has found that some of the most common reasons why the police used custody as a place of safety include

"insufficient staff at a health-based place of safety"

and

"the absence of available beds at the health-based place of safety".

I am sure that the Minister recognises that such problems will not be fixed by the Bill or even by the Home Office. It is therefore essential that, alongside the Bill, the Home Secretary and the Health Secretary work together to ensure that health service commissioners open sufficient beds and train sufficient professionals to deliver these welcome new commitments. New clause 50 would make it mandatory for the Home Secretary to report on the impact of the proposals in the Bill on mental health assessment and outcomes.

The hon. Member for Broxbourne (Mr Walker) spoke eloquently on Second Reading. He said:

"We cannot make demands on the police to change the way they do things in providing places of safety unless we actually provide places of safety."—[*Official Report*, 7 March 2016; Vol. 607, c. 59.]

He is absolutely right. There are not enough beds in this country for mentally ill people who are suffering real crises and, as my hon. Friend the Member for North Durham has said, where beds are made available, long distances sometimes have to be travelled to take the individual in question to a safe place where they can be looked after. We therefore need cast-iron guarantees from the Department of Health that it is in a position to support police officers in treating those suffering from mental health crises with the dignity and support that they deserve.

The mental health crisis care concordat requires NHS commissioners to commission health-based places of safety for that purpose. It states:

"These should be provided at a level that allows for around the clock availability, and that meets the needs of the local population. Arrangements should be in place to handle multiple cases."

However, there is not a specific statutory duty to commission health-based places of safety. In theory, the Mental Health Act could be amended to introduce a duty for clinical commissioning groups to commission suitable and sufficient health-based places of safety for persons detained under sections 135 or 136. Have the Home Office or the Department of Health considered that? We understand that, strictly speaking, such legislation is outside the scope of the Bill, but in parallel with the provisions here, the Home Office must have assurances from the Department of Health that they are going to make available the necessary capacity. That is why it is crucial to our amendment that the Secretary of State for Health is consulted. The Home Secretary and the Health Secretary should work together to ensure that the proposals improve the outcome for those subject to police detention and mental health assessment, and that health providers have the capacity to carry out timely assessments and provide any necessary in-patient care.

In conclusion, is there welcome progress in the right direction? On that there is absolutely no hesitation. However, on the issues that I have raised, the Government have yet to give assurances. I urge the Minister to act, to give Parliament, the public and the police whatever assurances are possible to ensure that the proposals in the Bill are not only brought forward with worthwhile intentions but implemented in practice, and that we avoid the possibility that in some cases they will do more harm than good.

The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): It is a pleasure to serve under your chairmanship, Mr Howarth, and to be back from Easter recess; I hope you had a pleasant break. I also pay tribute to the hon. Member for North Durham, who has campaigned tirelessly on this issue for many years and who is known as a leading advocate for those suffering with mental health conditions, be they crises or long-term conditions. I respect him enormously; I look forward to meeting him soon to discuss the many points he has raised today and to ensuring that the Government take notice of his experience and expertise and that we can work together on these matters.

I also want to make a point about what we are dealing with here. In a section 135 or section 136 detention, we are not dealing with a long-term condition that is being managed; we are dealing with a crisis—with somebody who, for whatever reason, either for their own protection or that of others, needs to be detained under the Mental Health Act. This has to be a short-term detention, and it should be one in which they are treated with dignity and respect. Somebody who breaks their legs does not get taken to a police cell, and nor should somebody having a mental health crisis. They have committed no crime, but for their own safety and that of others, they need a short-term temporary detention. That is not the same as being sectioned long term under the 1983 Act; it is a short-term issue. It might arise, for example, as a result of alcohol or drug abuse, because of some personal issue that has happened, or—let us admit it—because there has been a failure, where something has been identified from a health perspective but without identifying that the individual may go into crisis. It is about the crisis.

I want to pay tribute to my own police and crime commissioner, Matthew Ellis in Staffordshire, who I think was the first police and crime commissioner to identify how much police time was being taken to deal with people in a mental health crisis. He estimated that

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it was 20%: one in five police days were taken up with dealing people in a mental health crisis. It says a lot about the system that was in place, in which it was easier for police to deal with this than it was for health workers. We know that we are dealing with a problem that has grown up over many years; we are tackling it and ensuring that it is dealt with appropriately.

I want to assure the Committee that this issue is not just dealt with by the Home Office. I work very closely with other Departments: not just the Department of Health, where my right hon. Friend the Minister for Community and Social Care is as absolutely determined as I am to ensure that this matter is dealt with, but the Department for Communities and Local Government, the Department for Education and others. We need to ensure that we are all working together to identify the signs of mental health issues and ensure they are dealt with so they do not lead to a crisis. That is the important point.

The crisis care concordat, a cross-Government initiative, has led to a halving of the number of people being detained in police custody, but that is not good enough. That is why we are taking the steps in the Bill. We want to see this practice as the very rare exception when somebody in a mental health crisis ends up in police custody. We want the vast majority, and certainly those under 18, to be in a health-based place of safety.

The shadow Minister made a point about the east midlands police officer's family member. Since I took on this brief, a number of people have spoken to me about their personal experiences of mental health in their families. This is something we are all waking up to in many ways. The issue has not been recognised for many years and I am glad we are talking about it and recognising the scale of the problem and ensuring that support is available.

I will turn to the amendments tabled by the hon. Member for North Durham. As he said, amendment 157 seeks to introduce a requirement to offer a health-based place of safety before a private home is used. When a person is in a mental health crisis, it is important that they have access to the appropriate medical care at the earliest stage. I know we all agree on that.

In most section 136 cases people will be taken to a health-based place of safety, as is the case today. Usually, that will be a bespoke facility provided by the NHS that meets the national standards set out by the Royal College of Psychiatrists. The shadow Minister and I and my colleague who previously dealt with mental health have all visited health-based places of safety and been incredibly impressed by the work to provide somewhere safe and secure but also does not feel like a police cell. It feels like a medical setting and is comfortable. I visited one in Sussex—I know I have a Sussex MP behind me—where Katy Bourne, the excellent police and crime commissioner, has done incredible work on ensuring that there are sufficient and appropriate places of safety.

That facility at Crawley hospital has private access; the patient does not walk through the main hospital and A&E. The patient comes through a private door at the back into the mental health unit but in a secure section 136 facility where there is a bed, a private room and a bathroom. That is somewhere where someone can be treated with dignity while they experience the crisis, and can be diagnosed appropriately. Great credit should be paid to the many clinical commissioning groups and police and crime commissioners who are working together to ensure that those places of safety are there.

Maria Caulfield (Lewes) (Con): I am slightly concerned by Opposition amendments that want to create a national picture. Having a bespoke local model has meant that Sussex has gone from having one of the highest levels of detention of people in crisis to one of the lowest. That is working very well for the police, the health service professionals and, most of all, for the patients.

Karen Bradley: My hon. Friend, who represents her Sussex constituency extremely well, is right. When we looked at the figures, we asked why Sussex has a problem. It has Beachy Head and that is a particular problem. There is no Beachy Head in Staffordshire. There is a particular problem that the police and crime commissioner and the health services in Sussex have to deal with. The work that has been done there should be commended. Katy Bourne has worked not just to provide the health-based places of safety but with the Richmond Fellowship to understand the problems. That includes understanding why people are not always able to go to a health-based place of safety. It is shocking to discover that there are many health-based places of safety that will not take a person under the influence of alcohol.

We know that the majority of crises occur when somebody is under the influence of alcohol or drugs, so it is important to educate and have appropriate facilities. I visited an excellent facility in Merseyside where they are able to cope with somebody under the influence of alcohol, give them time to sober up and recover from the alcohol or drugs, and then assess them appropriately as to their ongoing medical care needs.

10.15 am

Jack Dromey: The Minister speaks with authority and sincerity, and we welcome the progress that has been made. Unusually, what we want to do on this occasion is strengthen the arm of the Home Office because, while it is true that there are excellent examples of good provision all over the country, it is uneven and patchy, and too many people who suffer mental illness are still being let down. The crucial point—she may be coming to this—is how the Home Office addresses the reality that, ultimately, it is the Department of Health that funds this provision. Unless the Department of Health is compelled to work with the Home Office, the Home Office will forever have problems.

Karen Bradley: I know that it will seem odd to the shadow Minister for a Home Office Minister to refuse further powers, but I will at this stage. I will return to that point later.

I will deal first with whether a health-based place of safety is the most suitable place of safety in every case, which goes to the nub of amendment 157. As the hon. Member for North Durham knows, a private home can already be used as a place of safety for a person detained under section 136 of the 1983 Act if the occupier consents. Clause 60 will make it possible to use a private home as a place of safety after a section 135 warrant has been used to enter those premises.

Where consideration is given to using a private home, it should be because it is the most appropriate place of safety for meeting that person's needs, and not due to a lack of better health-based alternatives. In determining which place of safety to take a person to, those involved will need to consider all the relevant circumstances in the round. However, if the person concerned is particularly frail or likely to be very distressed if away from familiar surroundings, removing them from a home setting may be judged to be, on balance, more harmful than helpful. Conducting the mental health assessment in the home may therefore prove both quicker and a more satisfactory experience for all concerned. Similarly, it may be preferable to take a young person to their family home, rather than detaining them in a strange place where they know no one.

There is no question of a person being taken to a private residence or forced to remain there against their will. The use of a private dwelling as a place of safety will require the active consent of both the person detained and the occupiers of the residence.

The shadow Minister talked of street triage. When I have met street triage teams across the country and seen mental health clinicians working with law enforcement, the best cases have been where the law enforcement officer has allowed the mental health professional to take responsibility for the necessary decisions. I have seen examples of the mental health professional, rather than the police officer, going into the place where the individual in crisis is, assessing them and determining whether they should be arrested or detained, whether at their own home, at somebody else's home or in a health-based place of safety.

Anybody who has been in a police custody suite—I hasten to add that it was not as an inmate, in my case—will know that it is stark and brightly lit, with no shade and nowhere to hide. It is a horrible environment for somebody who is ill to find themselves in. Going to a health-based place of safety is a much better option, but it may be that some people can be treated better and get the appropriate care in their own home. I assure the hon. Gentleman that we are not saying that there is no need for health-based places of safety—absolutely not. We are determined that health-based places of safety will be available as they are needed, but for some people it is better to be treated in their own home. In the majority of cases I genuinely believe that the health-based place of safety is the best place, but for a small number that will not be the case.

The Bill is designed to increase the flexibility that police and medical professionals have to act in the best interests of the person concerned in a wide range of circumstances, while ensuring that appropriate safeguards remain in place to prevent abuses of such a system.

Amendment 159 seeks to provide that the period of detention would commence when a decision to detain was made, rather than on the person's arrival at a place of safety. As the hon. Member for North Durham will know, sections 135 and 136 enable someone to be removed to a place of safety if that is required. Once they arrive at the place of safety, it is essential that the mental health professionals have sufficient time to conduct the assessment and arrange any further care and treatment that are required. Any individual in such a circumstance must have the opportunity to have a thorough assessment that is not driven by detention deadlines.

Amendment 159 would unfairly penalise both the people in need of care and the health professionals assessing them if the decision to remove them was taken in an isolated place and if getting them to a place of safety would take some time. I know from my constituency that in isolated rural constituencies, things just take more time. As it happens, one also cannot give birth in Staffordshire Moorlands because there is no maternity facility. If one goes into labour, it will take at least half an hour to reach a maternity hospital. That is the reality of isolated rural communities.

Similarly, what about situations in which removal is difficult and risky for all concerned—for example, when someone is threatening to jump off a bridge? An attending police officer would probably make the decision to detain very soon after arriving on the scene, but it might take time to get the individual off the bridge. Would it be reasonable to require the police officer, in that highly pressured situation, to think about the clock ticking towards a time when they would have to release the person, whether or not they had managed to get them to a suitable place for a mental health assessment?

I do not think that that is what the hon. Gentleman intends with his amendment. I think he intends to ensure that the person is transported to a place of safety as quickly as is reasonable. That can be addressed through guidance and the performance management of ambulance response times, rather than through legislation. Front-line professionals need to make the right decisions, taking account of the circumstances and the individual's best interests.

Amendment 158 seeks to reduce further the permitted period of detention. As far as I can see, there is no disagreement among members of the Committee that the current period of up to 72 hours is much too long. It was put in place to take into account bank holidays, weekends and so on, but that is not good enough. We cannot have a situation in which, because someone has a mental health crisis on the Friday night of a bank holiday weekend, they find themselves in a police cell for 72 hours. That is simply unacceptable. It cannot be right to hold someone who is suffering a crisis and is in urgent need of a mental health assessment against their will for up to three days anywhere, not just in a police cell.

Clause 61 deals with that issue by introducing the concept of a permitted period of detention, and setting that period at 24 hours. We have also allowed for an extension by a further 12 hours if—and only if—the person's clinical condition merits it. This is not a target time. Just as they are now, we expect that the vast majority of cases will be resolved much more quickly. The Royal College of Psychiatrists has recommended, as a matter of good practice, that the assessment should start within three hours of the person being detained, and that has been built into the Mental Health Act code of practice. I want to be clear that 24 hours is not a target. We do not expect that a mental health assessment will start at 23 hours. We want it to start as soon as is reasonably practical, to ensure that the person gets the assessment and treatment that they need as soon as it is required.

We have been told by stakeholders that there will be occasions when the clinical condition of the person is such that they simply cannot be assessed immediately—for example, because they are intoxicated through drugs or

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alcohol. We have listened to that advice, and the maximum permitted period of detention has been set at 24 hours so that time is built in for the effects of intoxication to wear off. Otherwise, we would risk creating a situation in which the assessment process was made difficult or impossible because the person was unable to participate fully.

Equally, a shorter maximum detention period would risk the person having to be released before they had been assessed because they were not yet clinically fit to participate. Clearly, that would be in no one's best interests. For those reasons, we have set the permitted period of detention at 24 hours. In the Government's view, that provides a good balance between keeping periods of detention as short as reasonably possible and making sure that the assessment can be carried out in the most effective way.

The provision for an extension of not more than 12 hours over and above the original 24 hours, is for the very rare cases where the clinician responsible for carrying out the assessment is satisfied that the person's clinical condition is such that the assessment cannot be started or completed within the 24-hour period. I want to be clear here: the provision to extend beyond 24 hours will be based solely on the person's clinical condition. There is no scope for it to be used in any other circumstance, such as staffing problems.

In practice, the average period of detention is now less than 11 hours. That time includes the person being detained, the assessment being made and any future care or treatment arrangements arising out of that assessment being put in place. In the majority of cases, the necessary processes are already completed well within 24 hours. Of course, we recognise that the reduction to 24 hours may represent more of a challenge in some areas than others, but the work that is going on across England to improve mental health crisis care services, backed by both the national crisis care concordat and the 94 local concordat groups, is helping to develop services that can respond to the changing needs of the areas they serve.

I hope that I have reassured the hon. Member for North Durham that the 24-hour time limit is not some arbitrary figure that has been chosen for convenience, but a deliberate decision that seeks to establish the balance between compulsion and care that I mentioned earlier.

New clause 11 seeks to introduce an annual reporting requirement in respect of detention in places of safety. The Government agree that the police should be transparent about the use of their powers under the Mental Health Act, so that we can see how often these sensitive powers are used, who they are used for and what further actions are taken. That will enable the changes being made through the Bill to be monitored effectively. It is only through looking at the data that we are in the position we are in. When my right hon. Friend the Policing Minister had responsibility for this area, he was determined to get to the bottom of what was and was not working well, and to make the decisions and changes that were needed to get to things working well across the country.

The Health and Social Care Information Centre and the National Police Chiefs Council publish annual data on detentions under sections 135 and 136 of the 1983 Act. For section 135, data are provided by health services covering the volume of detentions in which people are taken to a health-based place of safety. For section 136, the data include the numbers of people taken to police custody and health-based places of safety and are provided by the police and health services respectively.

However, we know that police data in this area have varied in quality. As a result, the Home Office is working with forces across England and Wales on a new data collection system for section 135 and 136 detentions to raise the level of consistency across the country. The new data set is voluntary in 2015-16, but will become a mandatory part of the Home Office's annual data requirement for all forces in England and Wales from April this year—this month.

The annual data requirement will capture not only the number of detentions, but the age, ethnicity and gender of the people detained; the place of safety used, including, where applicable, the reason for using police custody; and the method of transportation and, where a police vehicle is used, the reason why. We intend to publish the data annually to ensure that there is full transparency, so I hope the hon. Member for North Durham will not need to ask written questions at that point.

Mr Kevan Jones: I welcome what the Minister has said, as it goes to the core of what new clause 11 aims to achieve. In what format will those data be published? Will there be a consistent approach, as she suggests, so that areas can be compared? That is the other important point to consider as this legislation progresses: we must ensure that it is working, that people do not end up in police cells and that we have comparable data from different areas.

Karen Bradley: The hon. Gentleman is absolutely right. If we do not have comparable data, we cannot compare. My right hon. Friend the Policing Minister, who set this work in train, was adamant that we needed comparable, appropriate data, which would be available online, so that we could make a fair comparison.

It is a fair suggestion that the length of time for which people are detained should be recorded, but there are practical difficulties. It would be incredibly difficult for the police to keep such information, because, quite frankly, we do not want police officers to be part of the process once somebody has been detained under section 135 or 136 of the Mental Health Act, apart from in the very rare cases where a police station is used.

10.30 am

There will, I am afraid, be rare cases in which a police cell is the only place where the person can be kept, for their own safety. I know from speaking to chief constables and others that very occasionally that is so, but in the vast majority of cases, the person will be detained in a health-based place of safety. It will be difficult to ask the police to provide that information, but the Department of Health, NHS England and the Health and Social Care Information Centre are working together to develop and enhance the data that are collected across mental health crisis care. I am sure that they will consider what information should be captured in relation to the length of detentions. If it would be of further help to the hon.

Member for North Durham, I will commit to making that point to my right hon. Friend the Minister for Community and Social Care, who I know will want to be as helpful as he can.

New clause 12 concerns access to independent mental health advocates, and I know that the hon. Member for North Durham feels incredibly strongly about that. We have spoken about it privately and I would like to discuss it further in a meeting in the next couple of weeks. I entirely understand his motivation in tabling the new clause. It is right that if someone is in such a serious mental health crisis that they need to be detained, they should be given the help and support that they need to understand what is happening to them.

However, I am not sure I agree that that would best be achieved by extending the statutory independent mental health advocacy service. Independent mental health advocates serve a specific purpose in the context of safeguarding and advising people who have been sectioned under the 1983 Act and subjected to detailed assessment or treatment under compulsion. They help such patients to understand and exercise their rights under the Act, such as their right to make an application to the mental health tribunal appealing against being sectioned.

Although it is true that someone who has been detained under section 135 or 136 is technically being held compulsorily, it is not of the same order as being formally sectioned under, say, section 2 of the 1983 Act. Nor does the detention last anywhere near as long as being sectioned under sections 2 or 3 might last. Moreover, the person concerned would not receive compulsory treatment during a section 135 or 136 detention. Unlike other forms of detention under the 1983 Act, a section 135 or 136 detention does not confer on the person detained statutory rights of a kind that mean independent assistance might be required to assist in understanding or exercising them. For example, there is no right of appeal to the mental health tribunal.

It is important to consider the priorities in a section 135 or 136 situation. For someone in the midst of a frightening mental health crisis, the first priority must be getting them to a place where they are safe and can be looked after by appropriately qualified staff, in a calm and quiet environment. I have to question whether at that point in the detention process it would be helpful or practical to have to identify an independent mental health advocate and obtain their attendance at the place of safety.

The hon. Member for North Durham suggested that it was a question of cost, but it is not. It is about the practicalities of getting someone to the right place of support and help. Detentions under sections 135 or 136 might last only a few hours. If it were mandatory to provide anyone so detained with access to an independent mental health advocate, there would be a risk that advocates would have to prioritise them over patients who had been sectioned and subjected to compulsory treatment, because of the much shorter timeframe in which they would have to respond. That would inevitably have an unsatisfactory knock-on effect on the patients for whom the independent advocacy service was established.

I agree with what Dr Julie Chalmers said to the Committee in her evidence: that the mental health professionals looking after the detainee at the place of safety are best placed to provide the support. They have the skills and expertise to help the person understand and participate in what is happening to them immediately, without having to wait for an independent mental health advocate to arrive.

That is the point that I would like to discuss with the hon. Member for North Durham. He made the analogy when we spoke privately with someone who is arrested and is thereby entitled to a phone call and access to a solicitor. I understand that point, but this is about the practicalities of how we deal with someone in a crisis who needs urgent attention. We must ensure that we do not delay that urgent attention by putting an additional, mandatory burden in place. I would be grateful if we could discuss this matter further because, while I have sympathy with the proposal, I think that, practically, it may cause more problems than it solves.

New clause 50 seeks to introduce another reporting requirement to measure the impact of the changes we are proposing. We all share a common goal of improving the outcomes for those who find themselves experiencing a mental health crisis. We believe that the changes we are introducing will achieve that, particularly by ensuring that there is less reliance on police cells as places of safety and that people instead have prompt access to proper medical care and support. I do not believe, however, that this new clause would prove to be an effective way of measuring the impact of our changes.

Every person is different and the length of time that an assessment may take, and the outcomes that may flow from it, depends on the individual circumstances and what is in the best interests of that person, not solely on where they happen to be or the route by which they came to be there. The vast majority of persons detained or assessed under sections 135 and 136 do not require in-patient care. When they do, relevant provision will be made for them, as it is at present. That remains unchanged by the provisions in the Bill.

The shadow Minister talked about potentially putting a statutory duty on CCGs and commissioners. There is already a great deal of work going on. Last year, we announced £15 million to support the development of more health-based places of safety, in line with our manifesto commitment, but it is for local commissioners to make decisions at a local level—we do not want blanket, national decisions. As I mentioned earlier in relation to new clause 11, the Government are planning to publish new data annually on the use of sections 135 and 136, which will provide much greater transparency about the use of those powers and be a good indicator of the direct impact of this legislation.

I hope that I have been able to reassure the hon. Member for North Durham in respect of the many thoughtful points he has raised, and that he will be content to withdraw his amendment.

Finally, Government new clause 28 relates to protective searches. The key issue is ensuring that the police can, in all circumstances, search a person who is subject to section 135 or 136. It is important that the police are able to protect all concerned: the person experiencing the mental health crisis, health and police professionals, and others, including family members, who may be present during the execution of a warrant, the removal and the period of detention at a place of safety. Currently, the police are able to search a person under section 136(1) of the 1983 Act, which relates to the removal of a person from a public place, because it is a preserved

power of arrest under schedule 2 to the Police and Criminal Evidence Act 1984. However, section 135 does not constitute a preserved power of arrest, nor does the remainder of section 136.

We want to ensure that search powers can be used at any place of safety. As the Committee is aware, there are provisions in the Bill to enable a wider range of places of safety to be used for the purposes of an assessment where a person is subject to either section 135 or 136—namely, any place that is considered suitable and safe, and where those who are responsible for the place give consent. Many such places, including private homes, are unlikely to be covered by the existing powers of search. New clause 28 therefore complements the existing provisions in the Bill by enabling officers to search a person for their own protection and the protection of others.

I emphasise that where the place of safety is a hospital or other health setting, new clause 28 will not prevent health professionals from using their general powers to search patients when it is appropriate to do so. We recognise that search powers are a sensitive area, particularly where vulnerable people are concerned. For that reason, I want to be clear that the power will be limited, proportionate and used solely to maintain the safety of all concerned. It will be executable only when officers have reasonable grounds to believe that the person has an item concealed on them that could be used to injure themselves or others.

New clause 28 requires that a search is carried out only to the extent that is reasonably required to discover the item. It does not authorise a constable to require a person to remove anything except his or her outer clothing. It would allow a search of the person's mouth, but not an intimate search. Those safeguards are consistent with the existing search powers under PACE. The new clause will therefore support the other mental health provisions in the Bill by enabling officers to protect all concerned, while ensuring that appropriate safeguards are in place.

I apologise to the Committee for the length at which I have responded to these points, but I think it is incredibly important that what the Government are trying to achieve is well understood and that we all share the aims of the Bill. I commend new clause 28 to the Committee.

Mr Kevan Jones: As I said, my amendments are probing amendments. I thank the Minister for the full way in which she has responded to them. I know, and I want to put it on the record, that she, too, has a genuine interest in this subject and wants to do the best for individuals who suffer mental health problems.

I welcome the Minister's response to new clause 11. The data are going to be very important, because they will attest to whether the changes are working. By comparing areas with one another, local scrutiny will allow areas to improve their situations and to learn from best practice. As she said in response to an intervention, what happens in one area can be transferred to another.

I hear what the Minister says about new clause 12. I accept her point that this situation is very different from being sectioned under section 2 of the Mental Health Act, but for people to be detained without any right to advocacy is unique. Like her, I do not want to overburden or inhibit the system, but there needs to be a basic right for individuals to have access to information. Given her commitment to further discussions on new clause 12, I shall not press it to a vote, but we may come back to it on Report. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 60 ordered to stand part of the Bill.

Clause 61 ordered to stand part of the Bill.

Clause 62

APPLICATION OF MARITIME ENFORCEMENT POWERS: GENERAL

Amendment made: 214, in clause 62, page 71, line 29, at end insert—

"( ) a National Crime Agency officer having the powers and privileges of a constable in England and Wales under the Crime and Courts Act 2013, or".—*(Karen Bradley.)*

This amendment makes express provision for National Crime Agency officers to come within the definition of law enforcement officer that applies for the purposes of Chapter 4 of Part 4.

Clause 62, as amended, ordered to stand part of the Bill.

Clauses 63 to 76 ordered to stand part of the Bill.

Clause 77

FIREARMS ACT 1968: MEANING OF "FIREARM" ETC.

Lyn Brown (West Ham) (Lab): I beg to move amendment 227, in clause 77, page 81, line 7, leave out subsection (5).

This amendment would remove the exception for airsoft guns from the definition of a lethal barrelled weapon.

It is a pleasure to serve under your chairmanship, Mr Howarth. I, too, hope that you had a really happy holiday—I am learning from the Minister how to do these things.

The amendment would remove the exemption for airsoft guns from the definition of a lethal barrelled weapon from the Bill. It has been tabled as a probing amendment to understand why the Government have allowed an exemption in this case.

10.45 am

The Opposition support most of the changes to firearms control introduced by the Bill. The Law Commission published a paper in July last year identifying some deficiencies in our gun laws. The National Ballistics Intelligence Service told the Law Commission that the current legislation is "highly complex and confused", and the Metropolitan police's forensic firearms unit stated:

"The absence of definitions enables legal loopholes to be exploited".

In the light of that, the Law Commission made recommendations about how our gun laws could be improved.

We are pleased that the Government have taken up a number of those recommendations—in particular the need to define what constitutes a lethal barrelled weapon.

The Law Commission has argued that the lack of a formal definition of lethality can prolong trials and causes particular problems in cases involving air guns and converted imitation firearms. Achieving a conviction for possession without a licence can depend upon proving the lethality of the weapon involved, and that is made more difficult by the lack of a common standard. There is a clear need for legislation, so we are pleased that the problem is addressed in the Bill.

The Bill defines a lethal barrelled weapon as

"a barrelled weapon of any description from which a shot, bullet or other missile, with kinetic energy of more than one joule at the muzzle of the weapon, can be discharged."

The standard of 1 J of kinetic energy was recommended by the Law Commission. We recognise that that definition is a long-term goal of the Gun Control Network, and we support it and think that it is a sensible approach to take. However, the Bill contains an exemption for airsoft weapons from the usual 1 J threshold. For the benefit of the Committee—I too am on a learning curve about this—airsoft weapons are guns that can shoot single or multiple plastic pellets that are primarily used in military games, which I understand are a leisure activity.

Mike Penning: I will come on to that.

Lyn Brown: Oh heavens!

The Bill exempts airsoft weapons from the 1 J limit. If we pass the Bill without making the amendment, airsoft weapons will be allowed to exceed that limit; instead, they will not be able legally to exceed 1.3 J, or 2.5 J for a single-shot weapon. Why has the exemption for airsoft weapons been put in place? If the Home Office is of the view that a 1 J threshold successfully identifies a lethal weapon in other instances, why are airsoft weapons any different?

Deputy Chief Constable Andy Marsh has cited evidence from the Forensic Science Service that the 1.3 J and 2.5 J thresholds would not be lethal for airsoft weapons, as was noted by the Law Commission, but that research is from 2001 and therefore more than 14 years old. There must surely be something more recent. If there is not, why is that? Why have we not commissioned something?

Mike Penning: Unless my information is wrong, that research was done in 2011.

Lyn Brown: Well, my research tells me it was in 2001. We will wait for some inspiration on that.

There is some dispute about whether airsoft guns can be converted into weapons that can shoot lethal ammunition. I am told that numerous YouTube videos exist in which enthusiasts claim that they can do exactly that. It was revealed by a 2013 freedom of information request that the American Bureau of Alcohol, Tobacco, Firearms and Explosives believes that some airsoft weapons can be converted. Given that, the Minister needs to explain the rationale behind the exemption of airsoft weapons from the standard 1 J limit. If 1 J is the definition of lethality and airsoft weapons can, as we understand, be converted to be lethal, it seems to me that they should comply with the 1 J limit and not be allowed a 1.3 J limit.

I accept that the Minister might well talk about the fun he has on his holidays playing these weird games.

Mike Penning: As well as this one.

Karen Bradley: This is the weirdest game!

Lyn Brown: We wait to be entertained.

The Chair: Order. The Committee will be fascinated to hear about the Minister's holiday activities, provided that they are germane to the Bill.

Lyn Brown: Absolutely, Mr Howarth. My mind is boggling. I think I need to get back to the issue at hand.

The Minister may argue that the 1.3 J threshold is necessary to protect the airsoft industry, but the truth is that airsoft weapons could still be produced and carried without a firearms licence without this exemption; they would just have to be below the 1 J threshold of lethality. If airsoft guns are toys and not weapons, I do not see the problem with them being less powerful than lethal weapons. If airsoft enthusiasts still wish to have a powerful airsoft gun over the 1 J threshold, they could still do so without the exemption; they would just have to apply for the same licence and subject themselves to the same checks that we would expect for any other weapon that powerful. It does not seem to be too onerous a set of regulations to comply with.

Britain rightly prides itself on having among the most stringent gun control laws in the world. We see the public and their safety as the primary clients of gun control legislation. Elsewhere in the world, the so-called rights of gun owners are given preference, with tragic consequences. In this context, the Committee will be interested to know that Japan—where airsoft was invented and is profoundly popular—imposes a single 0.98 J limit on all guns, including airsoft weapons. Japanese manufacturers of airsoft weapons were happy to sign up to those regulations so, again, I do not see the need to exempt airsoft.

There must be a case for saying that a single power limit for all weapons, without exemptions or loopholes, would be legally preferable and more enforceable. That is what our amendment would achieve, and I know it is something for which the Gun Control Network, which was founded in the aftermath of the Dunblane tragedy, has campaigned. I look forward with interest to hearing what the Minister has to say.

Before I finish, I will talk about the use of airsoft weapons as realistic imitation firearms. These weapons are designed to look almost exactly like real firearms, and are only exempt from laws against the manufacture of realistic imitation firearms because of a set of defences provided in the Violent Crime Reduction Act 2006. In other countries, such as Canada, airsoft weapons are treated as realistic replica weapons and regulated as such.

On seeing these guns, I was immediately worried that they could easily be used to threaten and intimidate. There is no doubt that the owners and manufacturers of these weapons pride themselves on their guns looking exactly like the most deadly of weapons. I urge members

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of the Committee to go online and look for themselves. Websites such as Patrol Base sell guns that look exactly like military assault rifles.

I was not surprised to read that a cache of airsoft weapons was seized in December from an ISIS terror cell in Belgium. Two men were arrested and military fatigues, airsoft weapons and ISIS propaganda were found in their property. Brussels's main new year's eve fireworks display was cancelled as a result of the find.

Let's face it: if a terrorist walked down Whitehall with one of these guns and threatened to shoot us, we would fear for our lives and comply with the instructions given by the bearer of the gun if we were unable to run for our lives. Even if these weapons are not lethal, they can certainly bring fear and terror. I ask the Minister whether any thought has been given to reviewing the exemption for airsoft guns from the laws against realistic imitation firearms in the light of the incident in Belgium. If not, I strongly urge him to think about it.

I feel so passionately about this matter that if the Minister is unable to help us today, I would be happy if he would consider it further, write to me and perhaps come back to it on Report.

Mike Penning: As the shadow Minister indicated, we have some of the toughest firearms laws in the world. That is how it should be, and we will continue to strengthen and tighten the laws, providing clarity for the police and the public. I have looked at several aspects related to this matter.

I have two girls and I used to see toy guns when I went to toy shops with them when they were very young. Even as an ex-military man, I would not know the damn difference, from a distance, if someone came down Whitehall with one. Nevertheless, we are not going to ban all children's toy guns. It is an offence to use a toy gun, or any other kind of replica, in that way. There are powers on the statute book.

I should declare that I have never used an airsoft weapon and I have never been to one of the play sites, but nearly 50,000 people do have the kind of fun that I have not enjoyed. Given the days I spent with real weapons, I would not fancy taking up such an invitation, but plenty of people do.

We looked carefully at proportionality and whether or not the 1 J limit recommended in the Law Commission's report would have an adverse effect on the public's enjoyment. We looked carefully at whether the police or the National Ballistics Intelligence Service had reported any instances of airsoft guns causing serious injuries, and they had not. We had to look at whether the effect would be proportionate on people who were enjoying an activity against which there was no evidence whatever. The Law Commission itself discussed in its report whether changing the limit would be proportionate. We have looked into the matter and can find no evidence of injuries.

We already have restrictions. I accept that other countries have made different legal decisions. I lived in Canada for a short time. Interestingly, hunting rifles and other weapons are freely available there, yet the velocity of airsoft weapons is restricted. We think that the existing legislation is proportionate. If someone wants to adapt one of these guns, other legislation is immediately triggered. For example, if it becomes a weapon and they are unlicensed, the sanction is five years or a fine. If someone creates a weapon from something that is not designed to be one and it becomes a firearm, that is captured by a completely different piece of legislation. If someone comes wandering down the street with a toy gun, let alone one of the weapons we are discussing, it is an offence if they use it inappropriately or in a threatening manner.

We do not want to prevent 50,000-odd people from enjoying themselves, even if they are enjoying themselves in ways that are slightly different from how the shadow Minister and I enjoy ourselves.

Jake Berry (Rossendale and Darwen) (Con): Was any research undertaken into what difference such a change would make? Airsoft weapons have been known to cause injuries, even when used in safe, recreational settings. Did the Department undertake any research into the likelihood of reduced injury if the power of the weapons was reduced from the proposed 1.3 J limit to 1 J or even 0.98 J, which is the limit in Japan?

Mike Penning: We looked at the evidence from the police and the National Ballistics Intelligence Service. Yes, there have been injuries, in which there might have been other factors, but the police have not reported any instances of serious injuries.

I understand the shadow Minister's concern about something that neither of us are likely ever to enjoy, but 50,000-odd people do and I do not want to prevent them from doing so. I hope she will withdraw her amendment.

Lyn Brown: I hear what the Minister says, but I have not heard an explanation of why an airsoft weapon could not be 1 J or less than 1 J, as is the case in Japan. No evidence has been put forward today to suggest that that would stop the enjoyment of people who want to run through forests waving firearms. The other point that I do not understand is why it would spoil their enjoyment if airsoft weapons were a different colour—pink, red or green—so that they did not look as realistic as they do at the moment.

11 am

As an aside, my little niece, who is 11 years old, was absolutely terrorised while having lunch with friends during the Easter holidays when a man held up a post office opposite the restaurant she was in. It was with an imitation firearm, as the Minister might say—a cigarette lighter. I understand that weapons can be toys, cigarette lighters or imitation firearms. What I am saying is that the kinds of weapons—the rifles, the airsoft semi-automatics—being used by gamers could, in the wake of Brussels and Paris, create real fear and terror on our streets. If they were a different colour or if their barrels were turned down, or something to that effect, it would be quite clear that they were imitations and not the genuine article. I think that that would be helpful.

I have not been convinced by the Minister today and I ask him to try again.

Mike Penning: I have finished. I am sorry, but I do not agree.

Amendment 227 negatived.

Clause 77 ordered to stand part of the Bill.

Clauses 78 and 79 ordered to stand part of the Bill.

Clause 80

APPLICATIONS UNDER THE FIREARMS ACTS: FEES

Lyn Brown: I beg to move amendment 228, in clause 80, page 83, line 31, leave out

"the amount of any fee that may be charged"

and insert

"that the fee charged must be equal to the full cost to the tax payer of issuing a licence.".

This amendment would ensure that the firearms licensing system achieves full cost recovery.

The Chair: With this it will be convenient to discuss the following:

Amendment 229, in clause 80, page 84, line 7, leave out

"the amount of any fee that may be charged"

and insert

"that the fee charged must be equal to the full cost to the tax payer of issuing a licence.".

This amendment would ensure that the firearms licensing system achieves full cost recovery.

Amendment 230, in clause 80, page 84, line 27, leave out

"the amount of any fee that may be charged"

and insert

"that the fee charged must be equal to the full cost to the tax payer of issuing a licence.".

This amendment would ensure that the firearms licensing system achieves full cost recovery.

Lyn Brown: These amendments would be a first step towards ending state subsidy of gun ownership. They would achieve that goal by ensuring that the full costs of licensing prohibited weapons, pistol clubs and museums are recovered.

Full cost recovery was a Labour manifesto pledge. It is a key objective of the Gun Control Network, and it is even stated as a policy goal in the explanatory notes accompanying the Bill. It would therefore appear that we are all united in wanting to achieve the same end. However, the Bill would bring the licensing fee regime of prohibited weapons, pistol clubs and museums in line with the fees regime that exists for standard section 1 firearms. That is a problem. I do not believe that the fees regime for section 1 firearms provides for full cost recovery, so I do not have the confidence that these proposals will achieve full cost recovery for the licences that they control.

The Bill deals with relatively narrow issues around licensing fees. At the moment, there is no system to recover costs from the licensing of prohibited weapons. Subsection (1) will allow authorities to set fees for very powerful, prohibited weapons, such as rocket launchers, which can only be obtained with the permission of the UK Defence Council. The fee will be variable and set by the Secretary of State by regulations, just as is presently the case for ordinary section 1 firearms.

Subsections (2) and (3) deal with the licensing of pistol clubs and museums respectively. At the moment, such fees are fixed under the Firearms (Amendment) Act 1988, and the Secretary of State does not have the power to change them by secondary legislation. The Bill will bring the licensing system for those institutions in line with the licensing system for individual firearm owners by granting the Secretary of State the power to change the fees by regulation and by allowing variable fees. The Bill does not actually propose any change in the fees for pistol clubs or museums, and as a result the amount of money that these proposals involve is relatively small.

The Government estimate that these changes will bring in £570,000 a year for the Home Office, £78,000 for the English and Welsh police, £42,000 for the Scottish Government and £6,000 for Police Scotland. As it is said, every little helps. That increased revenue is welcome, as is the capacity for the Secretary of State to change the fees when the costs of licensing increase; but however welcome these changes are, the unfortunate truth is that these proposals will only make a small dent in the gun ownership subsidy that still persists in this country.

In the previous Parliament, the Labour party campaigned on full cost recovery. Fees for section 1 firearms had remained frozen for too long, and as a result the taxpayer was subsidising gun ownership to the tune of £17 million a year. That is insane. The police estimated that the cost of licensing a firearm was £196, yet the fee was stuck at £50. The taxpayer was paying three quarters of the cost of a gun owner getting a licence.

To be fair to the coalition Government, they did respond to the pressure. A working group was set up by the Home Office, the police and the British Association for Shooting and Conservation to consider the matter. After negotiations, it proposed that an £88 fee would be mutually acceptable to the police and shooters. The £88 fee was considerably short of the £196 that the police had independently estimated to be the true cost of licensing guns, but it was still a welcome increase. The £88 fee was finally introduced just before the general election. However, the fee was frozen for 14 years before it was finally increased. The £88 fee was arrived at only after negotiations with BASC and was not imposed following independent estimates.

Our amendments to the Bill would mandate the Secretary of State to set the cost of a licence for prohibited weapons, pistol clubs and museums at the full cost to the taxpayer. A legal requirement that the fee match the full cost would take some of the politics out of the process. The fee decisions would be based on an evidential analysis, conducted by the Home Office, of the true cost to the taxpayer. If the process proved to be successful for prohibited weapons, pistol clubs and museums, the Minister could consider extending it to section 1 firearms. This legislation could be a first step to true full cost recovery.

I will be interested to hear the Minister's views on the issue. I urge him to accept amendments 228, 229 and 230. The taxpayer should not have to subsidise gun ownership, as it currently does. Our amendments would be a first step to bringing that unfairness to an end once and for all. Labour pushed hard for full cost recovery in the previous Parliament, and we have seen some movement from the Government on the issue. I urge the Minister to work with us, both by accepting our amendments

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today and by looking at the issue of section 1 licences in the future, to achieve what seems to be a realistic and realisable common goal.

Mike Penning: We are as one on the fact that the taxpayer should not subsidise licensing. The Bill, which is about Home Office licences, will not have an effect on police fees. However, given that the shadow Minister referred to police licence fees, I will respond to that as well. I completely agree that this should have been done years and years ago, under several Administrations. I will therefore look at police licence fees, which the Bill does not do, but which the hon. Lady was referring to.

The legislation has been changed. As from April 2015, police licence fees increased by between 23% and 76%, depending on the certificate type. That is the first increase since 2001. Once the new police online system, eCommerce, is introduced, fees will recover the full costs of licensing. That is specific: it is in the legislation. I had problems myself with the coalition Government, along with several of my colleagues.

Let us look briefly at the Home Office licence fees. I completely agree that it is wrong that the taxpayer is subsidising other organisations. Currently, combined, the authorisation and licensing of prohibited weapons, shooting clubs and museums costs the taxpayer an estimated £700,000 a year. I do not feel that the amendment is necessary: I will explain why. Clause 80 will create a consistent set of charging powers across all Home Office firearms licences and authorities. The Government's intention is that licence holders, and not the taxpayer, should pay the full cost. The Government will set fees at the appropriate level, based on clause 80, but with agreement from the Treasury. Fees will be set out in a public consultation later this year, which will give affected organisations the chance to raise any issues. Final fee amounts will be introduced via regulations subject to the negative procedure.

Lyn Brown: What is the need for consultation on this? If the Home Office is going to impose the full cost of the licence fee on the person who is applying for the licence, what are we consulting about? If the consultation comes back with some interested group saying, "We can't afford this—we only really want 50% or 30%," might the Government be minded to agree with that, rather than impose the full 100% of the cost?

Mike Penning: There are frustrations in being a Minister, as former Ministers know. Consultation is a requirement, because we are likely to be challenged in law. That is why we consult. We will say what we want to do and then consult. One area where there may be real concern is the cost to museums. That is right. Other organisations may want to put their four pennyworth in, as often happens in consultations. We would not want to have a massively adverse effect on museums, though, so we will need to look at that. When proposing changes to legislation or to use delegated powers, it is always best to consult.

Jake Berry: Other people affected by this will be gamekeepers. For example, several gamekeepers in my constituency require a firearm for their job; so I hope that the Government will consider extremely widely. I do not think that, as a matter of principle, we should be saying that the Government should never subsidise sports. I am not particularly interested in volleyball, but I am very happy that we had the London Olympics, with £9 billion of Government money spent on hosting them. I do not think that the principle that we should never subsidise sport should be set out in law, so I hope that the Government will consider this and consult widely.

Mike Penning: I fully understand what my hon. Friend is saying. There is now a confusion between police licence fees and Home Office licensing fees. Gamekeepers will be dealt with under police licensing for shotguns for the control of vermin and so on. This part of the legislation is different: it is to do with Home Office licensing, for armed guards or merchant shipping, for example. Whether a museum is holding weapons—they are still tangible weapons—is separate. I understand that there is confusion: we look at police fees and licensing and think of that as one thing, but they are two different things. Police licensing fees have been set for the first time since 2001, but that is a different issue altogether. I will write to my hon. Friend to confirm exactly what I just said. However, with that and what I propose about using delegated legislation powers later in the year in mind, I hope that the hon. Lady will withdraw her amendment.

11.15 am

Lyn Brown: I am grateful to the Minister for making my day—that is a great birthday present for tomorrow. I look forward to receiving his letter, which will provide clarification. I will bring this back on Report if everything is not as hunky-dory as we think. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 80 ordered to stand part of the Bill.

Clause 81

GUIDANCE TO POLICE OFFICERS IN RESPECT OF FIREARMS

Amendment made: 215, in clause 81, page 85, line 20, leave out from "must" to end of line 22 and insert

"have regard to any guidance issued under section 55A that is relevant to the appeal.".—*(Mike Penning.)*

This amendment requires a court or sheriff hearing an appeal against a decision by the police under the Firearms Act 1968 to have regard to any guidance issued to chief officers of police under the new section 55A of that Act inserted by clause 81.

Clause 81, as amended, ordered to stand part of the Bill.

Clauses 82 to 90 ordered to stand part of the Bill.

Clause 91

POWER TO IMPOSE MONETARY PENALTIES

Lyn Brown: I beg to move amendment 231, in clause 91, page 94, line 37, leave out "50%" and insert "200%".

This amendment would increase the maximum civil penalty for breaking financial sanctions from half the value of the funds or resources involved to double the value.

The Opposition support the measures in the Bill that will toughen up the enforcement of financial sanctions. We appreciate that financial sanctions are an important diplomatic and strategic power, but we are concerned that the penalties proposed are too light and may not deter an individual from taking a calculated risk.

I am sure we all welcome the news that in recent weeks ISIS has been in retreat in parts and has lost the ancient city of Palmyra. I have no doubt that the financial sanctions that the UK and other countries have placed on 258 individuals and 75 entities that support ISIS have played their part, but, as the executive director of the Iraq Energy Institute told the Foreign Affairs Sub-Committee last month, ISIS's spending patterns suggest that it must still be receiving substantial donations and outside financial assistance. That is an important reminder that those who break financial sanctions can be a serious threat to national security and to British interests. Those people must be stopped and punished.

The Bill introduces sensible and welcome measures on enforcing financial sanctions, which we support. For example, we support the changes in clause 89, which will allow the Secretary of State to increase the penalty for breaking EU financial sanctions to seven years' imprisonment. That matches the maximum penalty for breaking an asset freeze under the Terrorist Asset-Freezing etc. Act 2010. Given the severity of the crime, that is a far more fitting penalty than the two years currently provided for.

Clauses 97 and 98 address the gap in time between the UN passing a financial sanction resolution and our Government adopting the EU regulations needed to implement it. The Bill will allow the Treasury to enforce United Nations financial sanction resolutions immediately by introducing temporary sanctions as an interim measure. This sort of interim measure seems entirely reasonable, given the importance of financial sanctions to national security. It was, indeed, recommended by Lord Rodger in the Supreme Court when reviewing the case of Mohammed Jabar Ahmed.

Although I support the general thrust of the measures on financial sanctions, there are a few areas in the Bill where I seek assurances from the Minister. In particular, I am concerned that the civil penalties introduced by clause 91 might be perceived as a mere slap on the wrist by those contemplating illegal business activity: that the civil penalties might be light enough that breaking sanctions might be considered to be a risk worth taking. Clause 91(3) states that the maximum civil penalty for breaking financial sanctions is either £1 million or

"50% of the estimated value of the funds or resources",

if that is more than £1 million. I wonder whether this is insufficient.

I know that £1 million sounds a lot—it is for me—but imagine an individual selling a property in the London property market with a value well in excess of £1 million to a foreign buyer who is subject to financial sanctions. Members of the Committee may have seen last year's Channel 4 documentary that showed a buyer posing as a Russian official who told the vendors of London properties that his funds were embezzled. Those dealing with him seemed completely and utterly unperturbed. We were not told by the journalists that they were subsequently contacted by any of the vendors to withdraw their interest in the sale, in reconsideration of the fact that the funds were embezzled.

Of the Mossack Fonseca companies tied up in the Panama papers leak, 2,800 appear on the UK Land Registry list of overseas property owners and have assets worth more than £7 billion. It is little wonder that Donald Toon of the National Crime Agency has said that

"the London property market has been skewed by laundered money."

There is little doubt that London property is seen as a safe haven for both legitimate and illegitimate investors. So my contention is that the threat of being fined 50% of the value of the property might not be sufficient deterrent to stop an individual seller undertaking a sale. As I understand the Bill, the vendor would still be able to keep 50% of the proceeds of a sale even if they are caught. That, if they received it in cash, might be more valuable to them than alternative revenue streams they could have received from the property. I would be grateful if the Minister let me know whether my reading of the Bill is correct. If it is, I would be grateful if she explained why she thinks that that is reasonable. If we want to discourage people who are contemplating engaging with an illegal business, the civil penalties need to be stronger.

I accept that the Minister—getting all my arguments in at once—may stand up and say that these are only civil sanctions and that anyone engaging in illegal business activity will still be subject to criminal sanctions, which include custodial punishments. That may well be the case, but the civil standard of proof of "the balance of probabilities" is a lot easier to meet than the criminal standard of "beyond reasonable doubt". That is particularly true with regards to financial crime, where the complexities of the financial system have seen calls for fraud cases to sit outside the jury system. That is not a call I agree with, as an individual, but it has been considered and debated in the recent past.

There is a danger that the new Office of Financial Sanctions Implementation, run by the Treasury, will rely on civil punishments rather than on the more difficult to achieve criminal punishments. If that is the case, the low level of civil penalties might actually only make the problem worse. Financial sanctions are an important diplomatic and strategic power. Individuals or companies breaking financial sanctions are a serious threat to the national interest and must be stopped.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.