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Public Bill Committee

COUNTER-TERRORISM AND BORDER SECURITY BILL

Fourth Sitting

Tuesday 3 July 2018

(Morning)

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Saturday 7 July 2018

The Committee consisted of the following Members:

Chairs: Mrs Anne Main, † Joan Ryan

† Bowie, Andrew *(West Aberdeenshire and Kincardine)* (Con)
† Chapman, Douglas *(Dunfermline and West Fife)* (SNP)
† Coyle, Neil *(Bermondsey and Old Southwark)* (Lab)
† Dakin, Nic *(Scunthorpe)* (Lab)
† Doughty, Stephen *(Cardiff South and Penarth)* (Lab/Co-op)
† Foster, Kevin *(Torbay)* (Con)
† Hall, Luke *(Thornbury and Yate)* (Con)
† Hoare, Simon *(North Dorset)* (Con)
† Huq, Dr Rupa *(Ealing Central and Acton)* (Lab)
† Khan, Afzal *(Manchester, Gorton)* (Lab)
† Lopez, Julia *(Hornchurch and Upminster)* (Con)
† Maclean, Rachel *(Redditch)* (Con)
† Maynard, Paul *(Lord Commissioner of Her Majesty's Treasury)*
† Newlands, Gavin *(Paisley and Renfrewshire North)* (SNP)
† Pursglove, Tom *(Corby)* (Con)
† Smith, Eleanor *(Wolverhampton South West)* (Lab)
† Thomas-Symonds, Nick *(Torfaen)* (Lab)
† Wallace, Mr Ben *(Minister for Security and Economic Crime)*
† Warman, Matt *(Boston and Skegness)* (Con)

Nehal Bradley-Depani, David Weir, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 3 July 2018

(Morning)

[Joan Ryan *in the Chair*]

Counter-Terrorism and Border Security Bill

9.25 am

The Chair: I remind hon. Members to switch off any electronic devices and to feel free to remove their jackets, although a reasonable breeze is blowing through the room. Will Members please note that I have made a change to the provisional selection and grouping on clause 3 with the agreement of the Minister, Mr Thomas-Symonds and the Scottish National party spokesperson, Mr Newlands?

Clause 3

Obtaining or viewing material over the internet

Nick Thomas-Symonds (Torfaen) (Lab): I beg to move amendment 5, in clause 3, page 2, line 13, after "occasions" insert

"in a 12 month period".

This amendment would mean that a person would have to view the relevant information three or more times in a 12 month period to commit the offence.

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

Amendment 6, in clause 3, page 2, line 15, after "kind" insert

", provided that on each occasion the person intends to provide practical assistance to a person who prepares or commits an act of terrorism.".

This amendment would require a person viewing information likely to be useful to a person committing or preparing an act of terrorism to intend to provide practical assistance of that kind in order to commit the offence.

Amendment 7, in clause 3, page 2, line 26, at end insert—

"(4) In subsection (3), leave out from 'section' to the end of the subsection and insert 'where—

(a) the person sets out a reasonable excuse for their action or possession; and

(b) the excuse in paragraph (a) is not disproved beyond reasonable doubt.'.".

This amendment would mean that a person has a defence to the offences in section 58 of the Terrorism Act 2000 as amended if they raise a reasonable excuse and that excuse cannot be disproved beyond reasonable doubt.

Amendment 8, in clause 3, page 2, line 26, at end insert—

"(5) After subsection (3), insert—

"(3A) A reasonable excuse under subsection (3) may include, but is not limited to, that the material has been viewed, possessed or collected—

(a) for the purposes of journalism;

(b) for the purposes of research;

(c) by an elected official, or an individual acting on behalf of an elected official, in the course of their duties; or

(d) by a public servant in the course of their duties.

(6) At the end of subsection (5) insert—

"(c) "elected official" has the same meaning as section 23 of the Data Protection Act 2018; and

(d) "public servant" means an officer or servant of the Crown or of any public authority.".".

This amendment would explicitly set out non-exhaustive grounds on which a reasonable excuse defence might be made out.

Amendment 9, in clause 3, page 2, line 26, at end insert—

"(7) The Secretary of State must within 12 months of the passing of this Act make arrangement for an independent review and report on the operation of section 58 of the Terrorism Act 2000 as amended by subsection (2).

(8) The review under subsection (7) must be laid before both Houses of Parliament within 18 months of the passing of this Act.".

This amendment would require the Secretary of State to conduct a review and report to Parliament on the operation of the new offence inserted by this clause.

Nick Thomas-Symonds: I am grateful for the opportunity to speak to all the amendments together, Ms Ryan, which I think will assist the speed of business in Committee this morning. The Opposition support the aims of clause 3, as I made clear on Second Reading. A clear problem with the law is that the Terrorism Act 2000 covers downloading but not streaming. As I remarked on clause 1, updates to the law need to be made to take into account technological changes. The reality is that people now live-stream many things, rather than formally downloading them. It is not right that we criminalise the downloading but not the live-streaming. That clearly has to change.

However, two major points arise on the updated offence. The first is that it has to be workable from a practical perspective. If it is not, that will clearly be a problem. The second is that the clause should not bring into our criminal law those who carry out perfectly legitimate activities, so how the offence is drawn is extremely important. It was with those two factors in mind that I tabled my five amendments. They all aim, first, to make the clause workable, and secondly, to ensure that the way the clause is drawn targets the activity that we all wish to target and to criminalise but not that which I am sure every Committee member would want to encourage.

Amendment 5 relates to the period of time in the Bill over which the three clicks would be considered to give rise to a criminal offence. I proposed it as a safeguard on the three clicks, although I have severe reservations about the three clicks provision. It is vague, as it stands—we do not know whether it will be three clicks on the same stream or on different streams. By its very nature, it is also arbitrary. I have tabled amendment 5 to draw a period of time to the attention of prosecutors in making decisions on this new offence. I do it on the basis that I have reservations about the underlying three clicks approach in any event.

Amendment 6, on the intention to provide practical assistance, is based on something the Home Secretary said on Second Reading. The chair of the Home Affairs

Select Committee, my right hon. Friend the Member for Normanton, Pontefract and Castleford (Yvette Cooper) intervened on him and made the sensible point that, as clause 3 stood, she was concerned that the Select Committee itself could be in trouble under that clause. He replied:

"The objective is clearly to find and punish those with terrorist intent."—[*Official Report*, 11 June 2018; Vol. 642, c. 633.]

That may be right at a common-sense level, but is not quite what the three clicks approach does, because there is no intention requirement alongside it. Amendment 6 would simply introduce the intention requirement to which the Home Secretary referred on Second Reading.

Amendments 7 and 8 are about the reasonable excuse defence, which I would like to see added to the Bill. It would be an important safeguard and reassurance to academics, researchers, members of the Home Affairs Committee or anyone else who might be viewing this type of content, not—to use the Home Secretary's words—with any kind of terrorist intent, but for perfectly legitimate reasons in studying this kind of activity and helping the rest of society to understand and defeat it. That is very important and something that we should all encourage.

Amendment 7 would also reverse the burden of proof. It should not be for the person raising the reasonable excuse defence to have to prove it. Once raised as a defence, it should then be for the prosecution to disprove it beyond reasonable doubt. I am sure the Minister will also pick up that that reverse burden is in the Terrorism Act 2000 and, in my view, it is reasonable to expect that it should also be in this Bill.

Amendment 9 would provide for a review of the operation of the clause and a report to Parliament on it. If we were to persist with the three clicks approach, Parliament would need to look at its operation carefully in terms of how it is drawn and its workability.

To conclude, I am greatly concerned by the three clicks approach. I have tabled five amendments aimed at workability and safeguards, and I hope they will be considered carefully by the Minister.

Gavin Newlands (Paisley and Renfrewshire North) (SNP): It is a pleasure to see you in the chair again, Ms Ryan. I support amendments 5 to 8 in the name of the hon. Member for Torfaen. As has been outlined at various stages, clause 3—and the Government's three clicks policy—has received the most attention and probably the most public criticism of any part of the Bill. Furthermore, I think the Minister knows that it is imperfect in its current guise. He has been open about the fact that the Government are not fully aligned to the three clicks policy, as the Home Secretary commented on Second Reading.

The Minister and the Government have my sympathy on this. The first job of any Government is to keep their citizens safe in these difficult times of high terrorist threat combined with the constant march of technology and online communication. It is very hard to keep legislation up to date and answer the calls of police and security services for further powers, while maintaining the balance of freedom and civil liberties that we expect and enjoy.

The SNP has serious concerns about how the policy will work in practice, and the impact that it may have on innocent individuals who have no interest in, intent to engage in, or no wish to encourage terrorist acts. It is self-explanatory that anyone who downloads or streams content for the purpose of planning or encouraging terrorist activity should face a criminal charge and, if convicted, a long sentence. Nobody would disagree with that, but this is about finding the most effective approach that targets the right individuals.

I accept the Government's point that more people now stream material online than download it to a computer or other device, and as such it is vital that we continue to review our counter-terrorism approaches and ensure they meet the current threat level, but the Government's approach to tackling streaming content through the three click policy is riddled with difficulty. Amendment 5 deals primarily with timing and does not take into account when a prosecution may be made.

The Government suggest that the three clicks policy is designed as a protection for those who accidentally access certain content online, but we must consider how easy it is for someone to click on a relevant source that could put them into conflict with the provision. It could catch someone who had clicked on three articles or videos of a kind likely to be of use to a terrorist, even if they were entirely different and unrelated and the clicks occurred years apart. Timing is crucial, because it would be difficult to accuse someone of being involved in terrorist activity if they had clicked on a certain source three times over a 10, 15 or 25-year period. Those concerns were echoed in the evidence session, and the independent reviewer of terrorism legislation, Max Hill—who we should all listen to—expressed his concern about the variable threshold proposed. We should act on that independent and expert advice by introducing a safeguard that could effectively help to identify a pattern of behaviour.

Richard Atkinson, the chair of the Law Society, also voiced his concerns about the Government's three clicks policy, stating that it could undermine or restrict those with legitimate cases, and that the lack of any consideration of timing makes the measure very vague. He said:

"To leave the law in the hands of prosecutorial decision as to whether or not it meets the public interest is a step too far. I think there is a need for greater definition around what is being sought to be prohibited."—[*Official Report, Counter-Terrorism and Border Security Public Bill Committee,* 26 June 2018; c. 31, Q74.]

Amendment 5 would add the safeguard that an individual would have to view the information three times or more in a 12-month period to have committed an offence, and that position was supported by Max Hill during the evidence session.

On Second Reading many Members made clear their concerns about the lack of other safeguards in clause 3, particularly regarding intent—for example, the clause does not take into account the length of time that anybody watches a video or views a website. That point was raised by the hon. Member for West Aberdeenshire and Kincardine on Tuesday in a question to Gregor McGill, who confirmed that the length of time that someone watches a video is not defined in the Bill, so watching a video or viewing a website for one second by mistake could be counted under the Government's three strikes policy.

I accept the point made by Mr McGill that such breaches would be harder to prosecute, and that discretion would be applied, but as I have said, I am not comfortable with leaving such a wide area open to prosecutorial discretion. More importantly, as Max Hill said, such an

[Gavin Newlands]

offence without a test of intent is too broad and would capture too many innocent individuals. It is important that the Home Secretary accepts that a balance can be struck between liberty and security. Hoda Hashem, a law student at Durham University and one of many individuals and groups who sent helpful briefings to the Committee—I thank them all on behalf of the SNP—summed it up well by saying,

"the certainty and precision of laws are essential principles of our legal system. It allows ordinary people to know when their behaviour might veer into the realm of criminality, and it also means that the government and police cannot arbitrarily choose who to prosecute. In effect, it is wrong for the Home Secretary to argue that it would be down to the Police and CPS to fix a bad law. As a matter of principle, it is for Parliament to ensure that the laws it passes are clear enough to be applied consistently and, more importantly, predictably…If the government is serious about striking the right balance between liberty and security, the offence must include a criminal intent, or it must be withdrawn altogether."

The Government may claim that adequate safeguards are in place to protect innocent individuals, but as we have heard, few agree with that position. That is why we support amendments 7 and 8, which have been tabled by the Labour party. The Government are asking for wide and vague powers, and we need safeguards in place to protect innocent individuals by ensuring that they are not prosecuted in the first place, and to provide for an adequate defence in the event that non-terrorists are taken to court. The stress placed on someone who was being investigated in that scenario would be extreme. Unless the safeguards are strengthened, and notwithstanding the Minister's commitment regarding journalists and academics, it would be a brave journalist or researcher who would not be deterred or at least have second thoughts before viewing such material. Max Hill warned that thought without action must not be criminalised. We all agree that real terrorists should have nowhere to hide. We should also agree that legislating in the name of terrorism when the targeted activity is not actually terrorism would be wrong.

As we have heard, the French courts struck down a similar attempt by the French Government. In addition, a UN special rapporteur, Professor Joe Cannataci, expressed concerns about this provision, saying:

"It seems to be pushing a bit too much towards thought crime…the difference between forming the intention to do something and then actually carrying out the act is still fundamental to criminal law. Whereas here you're saying: 'You've read it three times so you must be doing something wrong'."

In our view, amendments 5 to 8 are eminently sensible and, indeed, vital if the Government are to have any chance of surviving a legal challenge to elements of clause 3 and—almost as importantly—if they want to make good on the Home Secretary's commitment that a balance can be struck between liberty and security.

The Minister for Security and Economic Crime (Mr Ben Wallace): It is a pleasure to serve under your chairmanship, Ms Ryan. I thought that instead of embarking on a long prosecution of clause 3, it would be best to meet the hon. Member for Torfaen to discuss his amendments. I have said from the outset of proceedings on the Bill that my intention was to seek advice and suggestions from all parts of the political spectrum, and I felt early on that the three clicks provision presented a challenge. It opens up a whole debate about whether there were three clicks or four clicks, how far apart the clicks were, whether a time limit should apply to the clicks and so on. We were getting away from what we all agree on, which is the need to amend the legislation to reflect modern use of the internet—the streaming of online content. Partly because of technological advancements and the speed of the internet, people no longer download podcasts in the way they used to; they just click on their 4G device and stream the content. That is, of course, a problem for our intelligence services and law enforcement agencies, which often have to deal with people streaming content rather than downloading and holding it.

As I said, I have spoken to the Opposition Front-Bench spokesman on this issue and the Government will go away and examine a better solution to the three clicks issue. I hear the strong views about a reasonable excuse, and a debate can be had about judicial discretion. Campaigners for judicial discretion are sometimes also those who want much more prescriptive legislation that can contradict their earlier motives. If we included a list of reasonable excuses, rather than leaving it up to a judge to decide, would we end up with a list of 150? That is a matter for further debate, but I have asked officials to see whether reasonable excuses are listed in full anywhere else in statute. I understand that it may be possible to give examples rather than a full list.

I can assuage some of the fears expressed by the hon. Member for Paisley and Renfrewshire North about section 58. First, I cannot find a record of a journalist being prosecuted under the existing section 58, which has been in existence since 2000. Over 18 years, journalists and academics have downloaded some of this content, and they have not, I understand, been prosecuted even if they have failed to provide a reasonable excuse. That relates to section 58(3) of the original Act. We have heard claims of armageddon and the fear that suddenly everyone will be arrested, but that will not materialise—it certainly has not done in 18 years. I hope that that assuages the fear expressed by the hon. Gentleman.

I do not think that simply updating the provision should be cause for concern. It is an attempt to tackle the difficult issue that modern terrorism unfortunately uses incredibly slick recruiting videos—they are grooming videos—to pull people away from the society they are in, to radicalise them and to get them to do awful things. Recently, a young man was found on the way into Cardiff—not far from the constituency of the hon. Member for Torfaen—with knives and an ISIS flag. We found no evidence that that young man had ever met a Muslim, was from a Muslim family or had been to a mosque. He had simply been radicalised by watching streamed videos online. That is the power of such persuasion, and we also see it reflected in cyber-bullying and sexualisation. It is a real issue that we have to face.

9.45 am

Therefore, with the Committee's leave, I would like to indicate clearly that we are going to look at a better solution for the issue in the amendment, which will take on board the very clear recommendations from Opposition Members and others, to make sure that the Bill reflects an offence that deals with the current threat of streaming.

Afzal Khan (Manchester, Gorton) (Lab): Will the Minister look at not only the question of the clicks, but what possible safeguards could be incorporated? For example, we talked about journalists and academics.

Mr Wallace: Section 58(3), as it stands, says:

"It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action or possession."

If we can build on that—whether that means expanding reasonable excuse or accepting that reasonable excuse is already in there—and couple it with new wording that does not sound like three clicks or three attempts, I think we can come to a position that is satisfactory. We will definitely try to do that on Report. If the Committee would like, I can deal with the individual amendments that have been put forward, but I am in contact with the hon. Member for Torfaen to ensure we progress this.

Simon Hoare (North Dorset) (Con): Would it be fair to characterise the challenge my right hon. Friend has admitted the Bill faces as one of providing flexibility for law enforcement and uncertainty for perpetrators, while recognising the fact that, as he has alluded to, the down-loading and streaming culture has changed and there is a lacuna in the existing legislation that needs to be filled?

Mr Wallace: Yes. That is the challenge for all policy makers: where legislation is too tied to the technology of the day, they end up becoming a prisoner of that legislation. Obviously, when the Act was written in 2000, or probably in 1999, it talked about a person who was guilty of an offence if he collected or made a record of information. No one thought in 2000 that, with 4G, and with 5G around the corner, people would not be downloading everything and that things would be done much more in a live stream.

That is the challenge for not only law enforcement, but other policy, whatever regulations we are doing. If someone is sitting in the Treasury, I should think that they are perplexed—I am not going to wander off my brief, because I will get into trouble—at how certain companies exploit old tax regulation to make huge profits, simply based on the fact that that regulation was written for an analogue and not a digital day. That is the same challenge we face in law enforcement.

In the spirit of what I have said from the very start of the Bill, and as I said when the Criminal Finances Act 2017 went through the House previously, I am determined that we collectively try to get to a place that will help our law enforcement and intelligence services and meet their need, but also reflect the very real concerns that have been raised.

Nick Thomas-Symonds: I am grateful to the Minister for that answer and for the constructive discussions he facilitated with me yesterday. It is important that we work constructively to get this clause absolutely right. I welcome the Minister's approach in terms of not sticking to the three clicks approach—in fairness, he himself expressed reservations about it at an earlier stage—and in terms of the reasonable excuse defence, and I say that in respect of both the reverse burden, which is in the original Terrorism Act 2000 anyway, and of looking at whether we can put a non-exhaustive list of examples on the face of the Bill. All those things would be helpful in getting this clause into the right place. On that basis, I am happy not to press any of the amendments to a vote at this stage, and I look forward to what the Minister will bring forward on Report. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 3 ordered to stand part of the Bill.

Clause 4

ENCOURAGEMENT OF TERRORISM AND DISSEMINATION OF TERRORIST PUBLICATIONS

Question proposed, That the clause stand part of the Bill.

Mr Wallace: Clause 4 updates the law on the encouragement of terrorism, to ensure that it properly protects children and other vulnerable people. It amends sections 1 and 2 of the Terrorism Act 2006, which provide for the offences of encouragement of terrorism and dissemination of terrorist publications respectively. A statement containing an encouragement of terrorism for the purpose of section 1 and a terrorist publication for the purpose of section 2 are defined as a statement or publication that is likely either to be understood by members of the public to whom the statement or publication is published or made available as a direct or indirect encouragement to acts of terrorism or to be useful in the commission or preparation of acts of terrorism.

Those who radicalise others and who incite violence and hatred often target the most vulnerable in our society, seeking to spread their poison as wide as possible and to cause the maximum harm. Reflecting that, the focus of the section 1 and 2 offences is on the actions of the radicaliser, rather than of the person being radicalised. Specifically, it is on the nature of the encouragement to terrorism and on the intention, or recklessness, of the person doing the encouraging or disseminating the terrorist publication—that their actions should directly or indirectly result in another person preparing or committing an act of terrorism.

Other offences will of course apply if a person being encouraged goes on to prepare or commit an act of terrorism as a result, but those sections are specifically targeted at the harm intended, risked or actually caused by the radicaliser. That was Parliament's intention when it created those offences in 2006, and clause 4 closes a gap so as to give full effect to that intention.

At present, the wording of sections 1 and 2 means that those offences are committed only if a person being encouraged or being shown a terrorist publication is objectively likely to understand what they are being encouraged to do. That produces Parliament's intended result in cases in which encouragements are published or terrorist publications are disseminated to the general public and, in most cases, to a particular individual who has been targeted for radicalisation.

However, it also produces an unintended gap in cases in which a child or vulnerable adult is targeted for radicalisation and may lack the maturity or the mental capacity to fully understand what they are being encouraged to do, even when, to an objective bystander, it would be clear what the radicaliser was seeking to achieve. In such cases, the radicaliser may be purposefully seeking to indoctrinate and groom a child or vulnerable adult to become involved in terrorism but could potentially evade liability for doing so, despite their best efforts and their worst intentions to cause serious harm, if they could establish that the current tests in sections 1 and 2 were not met, because their target did not fully understand what they were being encouraged to do.

We do not believe that any case has so far arisen in which this issue has prevented a prosecution, and thankfully we do not anticipate it being relevant in large numbers of cases in the future. However, we consider it important

[Mr Wallace]

to take this opportunity to close that gap, which is well highlighted by the recent and horrifying case of Umar Haque, who was jailed for life after pleading guilty to disseminating terrorist publications to large numbers of children, whom he encouraged to carry out Daesh-inspired attacks, as well as being found guilty of a number of other serious offences, including plotting terror attacks.

I am not sure whether hon. Members are aware of the case, but Haque taught at unregulated schools in north London, exposing his views to, we think, hundreds of children, getting them to swear allegiance to ISIS, to re-enact attacks and to watch beheading videos, and then threatening that they would go to hell if they told their parents or other people. That is an example of the campaigns deliberately targeting the vulnerable and the young that some Daesh members get involved in.

We have seen in a number of lone wolf attacks—individual attackers, rather than complex plots—people with significant conditions who have been groomed or encouraged to do things. That is a very real example of why we have to be alert to the desperate measures that Isis involve themselves in. They are totally indiscriminate about who they encourage or who they wish to use to spread their hate.

I do not think that that is entirely on one side of the spectrum, and we could look at some examples of neo-Nazis and the far right: they, too, are casting their net wider and wider. Lonely, often damaged, young individuals sitting in their bedrooms are attracted to being part of some white, superior ideology. Again, that is why we are trying to close this gap.

This measure will help to ensure that the most vulnerable people are protected from radicalisation and prevented from engaging in terrorist activity. By extension, it will help to protect the wider public from acts of terror perpetrated by those who are vulnerable and who, as we have seen, may be exploited and manipulated by others for terrorist ends. I beg to move that clause 4 stands part of the Bill.

Nick Thomas-Symonds: I can deal with the clause relatively briefly, because the Opposition support it. The way in which sections 1 and 2 of the Terrorism Act 2006 are drafted means that they do not capture some of the activity that we wish to criminalise. The drafting of the 2006 Act looks at the victim and at whether, objectively, they are likely to have understood. As the Minister set out, section 1(1) states:

> "This section applies to a statement that is likely to be understood by some or all of the members of the public to whom it is published".

That means that anyone who is a vulnerable adult or a child, or anyone who may, on that objective test, be unlikely to understand it, is not covered by the law as it stands. Clearly, that needs to be tightened up.

The second part of the clause, which refers to section 1(2) of the 2006 Act, substitutes the test of "a reasonable person" for the test that exists. That is an entirely sensible change. Taken together, the changes mean that when we look at dissemination of this material, we can consider vulnerable victims, whether they are adults or children, and not be stuck with the objective test, which means that they cannot be covered. On that basis, the Opposition support clause 4.

Stephen Doughty (Cardiff South and Penarth) (Lab/Co-op): It is a pleasure to serve under your chairmanship again today, Mrs Ryan.

I listened with interest to what the Minister and my hon. Friend the Member for Torfaen said. I agree that there is a gap that needs to be addressed. In a number of the cases of which I am aware, both locally and elsewhere, this process of grooming is insidious and often involves what at first appear to be harmless activities, such as taking young people away for an adventure or a sporting occasion—perhaps football. Food is often a common factor: something as innocuous as going for chicken and chips in Cardiff bay may lead to a situation in which material or ideas are put in the minds of vulnerable or unaware young people in particular.

There was the case of Reyaad Khan, who, unfortunately, came from my constituency, although he was living in the constituency of my hon. Friend the Member for Cardiff West (Kevin Brennan) at the time. He had been to fight in Syria, and he was regularly meeting with other people in the local area, having what would probably be innocuous conversations to most people. However, at some point, things get put into people's minds and suggestions are made. When those are vulnerable individuals, such as those who have become disaffected with friends or traditional sources of authority or guidance—whether that is their local mosque or their family—they can become vulnerable to more alarming suggestions and perhaps to specific suggestions that they commit particular acts or engage in particular activity. In the case of some individuals, the process of grooming is often long, and it is often hazy, grey territory.

Will the Minister say a little more about where he believes the new clauses would take us in terms of the point at which an offence is committed? Obviously, we would not want a whole series of processes to be accidentally caught up in this—legitimate contact between individuals, and discussion and friendship groups. Whether or not we agree with certain individuals and what they might be suggesting, it would not cross the line of being a terrorist offence. Clearly, however, at some point material may be provided, or ideas or suggestions made, that may lead someone to go on to commit heinous activities. Where on the spectrum does the Minister believe that offences will start to be committed, and how will the provisions apply?

10 am

Mr Wallace: I thank the hon. Member for Cardiff South and Penarth, who is right about that method. The tragedy is that we now see that in county lines and crime. Loaded 15-year-olds go off into the valleys—or the dales, in my part of the world—ensconce themselves there and are told, "We will treat you like a grown-up. Here are some free drugs, and here is something of value." That grooming over a period allows some pretty nasty people to inflict county lines on our communities. The hon. Gentleman is right when he says that is a phenomenon of grooming.

It is important to note what clause 4 is really doing. Sections 1 and 2 on the encouragement of terrorism are already in the Terrorism Act 2006. At the moment, you have to prove both sides: that the people you are delivering the message to are willing and able to accept it, and that the message you are giving is encouraging terrorism. The offence is the encouragement of terrorism. As I

said, this offence is often complemented, or a training-type offence is used instead. That is, effectively, where we see encouragement. Clearly, we have to prove that, and that is where the criminality starts and stops. For example, I am encouraging someone if I say, "This is great. Look at what ISIL is doing. Look at these beheadings. This is something we should get involved in." That offence remains unchanged, and that, effectively, is the boundary of passive into active support.

At the moment, there is the double couple of that action plus the people having to be receptive. Our challenge is what to do when that is targeted at vulnerable people. That is why we have sought to close that gap. We do not expect this to be used in a major way. We have not seen much evidence yet of people using it as an excuse. We were worried about the offence that I quoted of the teacher being used, and we see a growth in unregulated space. I think my hon. Friend the Member for North Dorset was talking about this earlier. Unfortunately, we are seeing more and more people being diverted into home schooling or unregulated space, where I am afraid people can get their hands on people to effectively brainwash them.

Nic Dakin (Scunthorpe) (Lab): I am concerned about the issues the Minister is raising in terms of unregulated schools and about whether this measure on its own can tackle that problem. What else is being done to address this? I recognise that this may well involve working with other agencies. As the Minister has highlighted this as a major area of concern, it is important that we check that nothing else needs to be done to address it.

Mr Wallace: The hon. Gentleman is right. All terrorist legislation always bumps into freedoms and liberties. Religious freedom is something we hold very dear to our hearts. In my constituency, most unregulated schooling space is perfectly fine and perfectly adequate. People receive their religious schooling there. There is a long tradition in this country of home schooling. From time to time, all of us will hear in our mailbags from the champions of home schooling.

The hon. Gentleman is right that, from my point of view as Security Minister, there is a genuine concern that safe spaces—which the next clause deals with—are where the modern terrorist operates. Whether that safe space is on the internet—streaming—or in unregulated or home schooling, it allows messages to be targeted at young people, and we have to be alert and explore what we can do.

On the hon. Gentleman's specific point on unregulated schools, and in the light of the importance that we in this country attach to religious freedom, there are more than just straightforward primary legislation methods to address the problem. Those include working with regulators, other Departments and local authorities to make sure that they are alert to the issue. Working with religious leaders to make sure that they are alert to the quality of teaching in those settings is another way of dealing with it.

Nic Dakin: I am concerned about the rise in exclusions in some parts of the country, which is related to the rise in home schooling. This is creating a space in which, because of the greater fragmentation of the education service, intelligence is perhaps more likely to be lost. It is important that the work being done in this area tries to cohere things back together.

Mr Wallace: Before I get dragged off and told I am speaking out of order—I got a look from the Chair—let me say that the vulnerability that the clause tries to deal with reflects the vulnerability being exploited in our communities. We need to be alert to safe spaces, whether they are in an educational setting, an internet setting or a social setting, such as sports clubs. We have historically seen paedophiles target football clubs and everything else, as happened in my constituency, but now, unfortunately, we see extremists targeting them as well. We all have to do what we can to make sure that such safe spaces, containing vulnerable people, are closed off.

Julia Lopez (Hornchurch and Upminster) (Con): I also share the concerns on home education—as the Minister will know, because I have expressed them to him personally. I wonder whether, at the very least, an amendment could be tabled that would exclude from home educating any household of which a member has been convicted of a terrorist offence. I know how passionately a lot of home educators feel about their freedoms, and I respect those freedoms, but I wonder whether we could put such an amendment forward at the very least. I know that my hon. Friend the Member for North Dorset is also looking into this area and that a home education consultation is under way.

The Chair: Before the Minister answers, I think we are wandering a little far from the purpose of the clause. Maybe we should come back and focus on that.

Mr Wallace: On the subject of clauses, my hon. Friend makes a valid point. I will ask officials to explore the concept of how we ensure the protection of the home-schooled. I will revert to her with all those details, probably in writing.

The point is that vulnerable people are being exploited and groomed, and unfortunately they are being encouraged into extremism. As the law stands, there is potentially a defence for people whom we would like to prosecute, because the vulnerable people they exploit are viewed as not being aware of what they may be doing. We are trying to plug that gap, which will hopefully go some way to making sure that these environments are not exploited.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

Extra-territorial jurisdiction

Question proposed, That the clause stand part of the Bill.

Mr Wallace: We talked about safe spaces when considering clause 4. One of our biggest challenges, as it is for many of our European allies, is the number of foreign fighters and people who have gone abroad to fight. Some have been encouraged to do so and some of them have been conned into doing so. It breaks my heart to see 15-year-old girls effectively seduced to go off to throw their lives away in dangerous parts of the world. It might sound fun to run away from home, but I assure the Committee that when those girls see the horrors of Raqqa or Aleppo, it is no laughing matter —indeed, some of them have even lost their lives in doing so.

[Mr Wallace]

We have to do more to deal with offences that happen overseas, and with those who set themselves up in safe spaces, and reach back into the United Kingdom, destroy lives and encourage terrorism. We are not alone in that challenge. I met the German and French interior Ministers at a G7 event, and it is also a challenge for them. These things often happen a long way away, but can have a horrific impact on our streets and on families in this country. Some of the offences committed in this country have included killing people in places such as London Bridge and Borough market, and they were inspired by people who have sought sanctuary abroad, as they would see it. We must do more about that.

Clause 5 extends the jurisdiction of UK courts to cover further offences, so that we can bring to justice persons who commit acts of terrorism abroad. Section 17 of the Terrorism Act 2006 already provides extra-territorial jurisdiction for a number of terrorist offences. Extraterritorial jurisdiction means that a person may be prosecuted in the UK for conduct that took place outside the United Kingdom, but would have been unlawful had it taken place here. For the offences listed in section 17, it is not necessary for the individual to be a UK national or resident, and the offending need not be directly linked to the UK.

Through section 17 of the 2006 Act, and similar provisions in the Terrorism Act 2000, the UK already takes extraterritorial jurisdiction for most terrorism offences where that might be relevant. It means, for example, that the British courts are able to prosecute people who return to the UK having been involved in fighting with a terrorist organisation overseas, or been involved in a terrorist plot with a significant international dimension. That is an essential power for dealing with the threat posed by foreign fighters and to ensure that such people can be brought to justice. As I made clear on Second Reading, about 40 individuals who have returned from conflict in Syrian and Iraq have been convicted so far, many through the use of extraterritorial powers.

Clause 5 extends extraterritorial jurisdiction to three further offences, and widens the coverage of a fourth, with the result that all relevant terrorism offences will now be subject to extraterritorial jurisdiction. That will ensure that there are no gaps in our ability to prosecute individuals who engage in terrorist activities overseas that would be unlawful in this country if they returned to the UK.

Specifically we are extending extraterritorial jurisdiction to the following offences: section 13 of the Terrorism Act 2000, under which it is an offence to display a flag or other article associated with a proscribed organisation; section 2 of the Terrorism Act 2006, under which it is an offence to disseminate terrorist publications; and section 4 of the Explosive Substances Act 1883, under which it is an offence to make or possess explosives under suspicious circumstances.

We are also extending the coverage of extraterritorial jurisdiction to section 1 of the Terrorism Act 2006, under which it is an offence to encourage terrorism. That offence already has extraterritorial jurisdiction for where an act of terrorism is encouraged that would constitute a "convention offence", meaning an offence listed in certain international agreements. Clause 5 would remove that limitation so that it would be unlawful to encourage any act of terrorism while overseas. That is a particularly relevant and timely change to our terrorism legislation.

International travel for purposes such as training, receiving direction from or fighting with a terrorist organisation has long been a feature of the terrorist threat faced by this country. In response, we have taken an incremental and proportionate approach to extending the territorial reach of our criminal law in those areas where there is a persuasive operational case for doing so. We recognise that extraterritorial jurisdiction is an exceptional power, but it is also essential to ensure that modern terrorists can be brought to justice.

Most recently we added to section 17 of the Terrorism Act 2006 the offences of preparing terrorist acts and training for terrorism—that was in 2015 in response to the then still developing threat from those who travelled to Iraq and Syria, in particular to join Daesh. Experience since then has shown a strong operational case for further extension of the extraterritorial jurisdiction provided by the clause. Some individuals located in Syria and Iraq have reached back to others in the UK and elsewhere, through social media and other online platforms. They have done so to spread propaganda, to disseminate terrorist publications, to promote Daesh and its aims, including through publishing flags and logos associated with organisations, and to encourage others to carry out terrorist attacks in the UK and other countries.

10.15 am

Of course propaganda, radicalisation and recruitment have long been a core part of the activities of terrorist organisations, but with the emergence of modern online technologies that can better facilitate and multiply such activity, and of modern organisations such as Daesh that are able to take full advantage of them, we have seen an unprecedented increase in the scale and intensity of online radicalisation and outreach. The police and MI5 report that it is playing a significant part in driving the terrorist threat we now face, but they currently have incomplete powers to prosecute the individuals responsible if they return to the United Kingdom. It is vital that we give those responsible for protecting us from this threat the power they need, and that our legislation keeps pace with the changing and evolving methods. Clause 5 will do just that.

These are exceptional powers, and section 17 of the 2006 Act provides certain safeguards that have, for the last 12 years, ensured that they have been used appropriately. The further offences added to section 17 by clause 5 will also be subject to those safeguards. Any decision to prosecute will be taken by the police and the independent Crown Prosecution Service on a case-by-case basis. The CPS will need to be satisfied that the prosecution would be in the public interest and that there is sufficient evidence to provide a realistic prospect of conviction. Before any trial can take place, prosecutions under section 17 for an offence committed overseas may only be instituted with the consent of the Director of Public Prosecutions. As a further safeguard, recognising that extraterritorial jurisdiction power is not limited to British nationals, if it appears to the Director of Public Prosecutions that the offence was committed for a purpose wholly or partly connected with the affairs of a country other than the UK, she may only give consent with the permission of the Attorney General.

Nick Thomas-Symonds: I rise to support the clause. The Minister has already set out that extraterritorial jurisdiction is nothing new under our law. It most certainly is not, and the effect of this clause is to extend that extraterritorial jurisdiction to new offences, including under section 13 of the Terrorism Act 2006, which is about uniforms and flags associated with proscribed organisations; section 4 of the Explosive Substances Act 1883, which is the making or possessing of explosives in suspicious circumstances; the dissemination offence under section 2 of the 2006 Act, which we referred to in our debate on clause 4; and finally to section 1 of the 2006 Act on encouraging terrorism.

I would press the Minister to elaborate a little more on the point made by the independent reviewer of terrorism legislation in his evidence to the Committee, expressing concern about the way in which extraterritorial jurisdiction is applied to UK citizens on the one hand and non-UK citizens on the other. The Minister referred to the Attorney General's permission being given in certain circumstances, where we have British nationals on the one hand and on the other we do not. While the Opposition wholly support the clause, it would assist if the Minister at least addressed the concern that the independent reviewer raised about the clause in that regard.

Stephen Doughty: I agree with the comments the Minister and my hon. Friend have made on this clause 5, but I would be interested in the Minister's remarks on this point: if an individual has committed these offences or any of the existing offences abroad, it is crucial to detain them at the border when they attempt to re-enter the UK. There have been some worrying reports in the last few weeks about stolen passports or identity documents being available, and being used by criminals and those who have potentially committed terrorist offences overseas. It is crucial that we co-operate with Europol and Interpol, through the databases on stolen documents, to stop individuals who are attempting to sneak back in, perhaps because they have committed the offences outlined in the clause—indeed, they are the most likely to be trying to avoid detection on entering the UK. Can the Minister say a little about what steps are being taken to enforce not only the existing measures, but the measures as outlined in clause 5?

Mr Wallace: First, on the point made by the hon. Member for Torfaen, I heard what was said by the reviewer of terrorism legislation, Max Hill, about this issue, but the United Kingdom needs to protect itself in respect of certain offences that are being committed abroad and having an impact on us here. My memory is that the reviewer of terrorism legislation said that he was worried that we would be criminalising people here for things that might not be criminal in the country in which they are doing them.

Let me just reflect on the offences that we are bringing into scope. Under section 4 of the Explosive Substances Act 1883, it is an offence to make or possess explosives "under suspicious circumstances". I think back to the Manchester Arena bomber and the training videos that were used to show how to make that bomb. The training video was prepared and filmed potentially anywhere in the world. I see training videos that show people with immaculate English from the backstreets of Raqqa or wherever. It seems bizarre that in the safe space that they have been operating in, they can handle, possess or make explosives and use that as a way to bring back knowledge to train people here. Sometimes the only evidence we have is over there rather than over here, and it is important that we find the ability to prosecute these people.

Similarly, if someone is filmed in Syria dressed head to foot in a Daesh outfit, with a flag and sword and beheading-type posturing, and then they use the footage over here, that is a challenge at the moment. It may be easy in that environment, because Syria is a failed state. We are looking at a state that does not really have the rule of law: it has a dictator who does not really believe in the rule of law. It is clear, in relation to some examples, that we need to find some offences to deal with the problem; we need to bring them into scope. I think and hope that we will be able to raise more prosecutions against people who we know have been there, although we do not at the moment have the offences on the statute book to prosecute them.

I met with the hon. Member for Cardiff South and Penarth on the issue of the border. There is a balance to be struck. How do we stop and examine data at the border? How do we verify people's identity if they come in with an emergency passport or a passport that does not quite fit? Obviously, we will debate that again when we talk about the hostile state powers. Schedule 7 to the Terrorism Act 2000 is often used with some success, but I am aware—the hon. Gentleman has discussed this with me—that we have to be mindful of its impact on the wider public. The cost to them of a schedule 7 stop may be missing a flight if they are on their way out of the country and so on. I have asked for us to look at what more we can do around that space to mitigate that.

The hon. Gentleman is right to point out that at the moment returnees from the areas where we are seeking extraterritorial jurisdiction are trying to take advantage of stolen identities. There is a country in Europe whose identity cards are pretty weak and are often exploited by organised criminals; it is very easy for them to get into the system and be used. We are alert to that. It is why we are trying to do more with things such as e-gates. I know that there is some negative reporting about them, but they can be quite positive in spotting fake passports. We have a range of methods, and I would be happy to brief the hon. Gentleman privately on how we try to keep our border safe, but yes, we have to be alert to that. Even when people get in, the hope is that through accessing digital media we can bring some of these new offences to bear on them for what they did abroad. That is where we are trying to get to. It is a challenge as we have tended to expect our terrorists to be here rather than abroad. That is another example of how the Bill is really about trying to reflect the modern internet space.

Stephen Doughty: I thank the Minister for his comments. One country that has been highlighted as a place where illegal documents can easily be obtained is Turkey. Given the proximity of Turkey to the conflicts in Syria and Iraq, could the Minister say a bit about what work has been done with the Turkish authorities to try to deal with people who can easily sell stolen identity documents there, which may be used by people who have committed such offences and are trying to re-enter the UK?

Mr Wallace: I met the Turkish authorities when I visited Turkey not so long ago, and we discussed those issues. In their defence, the Turkish are actually pretty good at knowing who is in their country. One of our worries is the Italian identity card, because once people are in the EU, it is much easier. The ambition of a lot of those people is to get an EU identity card or an EU passport, and to move around freely.

We certainly find weaknesses in the system. The Italian identity card has caused our crime and terrorist fighters a challenge, because it is the one that is most used by illegal entrants to Europe, whether for immigration or any other purpose. I am more worried about some of the European issues than about Turkey at the moment. Generally, the Turkish detain people and then those people are managed back through temporary restraining orders. Usually, the Turks know who they are and they hand them over.

Stephen Doughty: Just to clarify, I am talking about stolen British documents and perhaps other EU documents, including the ones he suggests, being sold in Turkey to individuals. It is not just about whether the Turkish know who has come in and out, but about people gaining access to stolen Italian or British documents on sale in Turkey.

Mr Wallace: I will be quick, because this is definitely wandering off the clause. We wash millions of passenger name records at the National Border Targeting Centre, and if there are cancelled or stolen passports, they match. We are quite quick on that compared with our European allies, and we have a high detection rate, although it is not 100%. We have invested in that capability over the decades and I am confident that although we do not get them all, we do detect them. Obviously, we have to ensure that we continue to review that, and we are doing that as we speak.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

Increase in maximum sentences

Nick Thomas-Symonds: I beg to move amendment 10, in clause 6, page 3, line 36, at end insert—

"(7) Sentencing guidelines for offences for which the maximum sentence has been increased under this section must be published within six months of the passing of this Act by the following bodies—

(a) in relation to England and Wales, the Sentencing Council for England and Wales;

(b) in relation to Scotland, the Scottish Sentencing Council; and

(c) in relation to Northern Ireland, the Lord Chief Justice's Sentencing Group."

This amendment would require the bodies responsible for sentencing guidelines to produce new guidelines in relation to offences for which the maximum sentence would be increased under Clause 6.

Clause 6 is the first of five clauses that facilitate the extended maximum sentencing periods with respect to the earlier clauses. I was uneasy about additional sentencing, given the state that clause 3 was in, but because of the Minister's reassurances about the changes to that clause, I am less uneasy about it. Amendment 10 looks at the continuing role of the Sentencing Council. The council published its guidelines on this area in March, but they have not been updated to take into account the changes that are happening to offences as a result of clauses 1, 2 and 3, as I will set out.

In one of our earlier debates, the Minister said that it is of course always at the discretion of the judge to apply the law to the sentencing of an offender in an individual case and to take into account the circumstances, the background of the offender, the nature of the offence and so on. No parliamentarian would seek to interfere with that judicial discretion in particular cases, but the Sentencing Council's guidelines fulfil a vital role when parliamentarians set maximum sentencing penalties, as the Bill does—it does not set minimum sentences.

All I wish to say to the Minister on this amendment is that, although we would not wish to stray into that judicial discretion, it might be sensible for the Sentencing Council to look at these offences in updated form, to see whether they wish to publish new guidelines. That would be sensible for everybody.

10.30 am

Mr Wallace: Let me start on a positive note: I fully endorse the sentiment behind the amendment of the hon. Member for Torfaen. It is right that the bodies responsible for providing sentencing guidelines in England, Wales, Scotland and Northern Ireland can review and update any relevant guidelines in relation to terrorist offences to take account of the provisions in the Bill. As the Committee will be aware, the Sentencing Council for England and Wales published new guidelines for terrorism offences in March. Those came into force on 27 April. The new guidelines reflect the developing nature of the terrorist threat and the increasing concern about the availability of extremist material online, which can lead to people becoming self-radicalised.

The Sentencing Council has indicated that, in terms of the impact on sentencing levels,

"it is likely that in relation to some offences, such as the offences of preparing terrorist acts and building explosive devices, there will be increases in sentence for lower level offences. These are the kinds of situations where preparations might not be as well developed or an offender may be offering a small amount of assistance to others. The Council decided that, when considering these actions in the current climate, where a terrorist act could be planned in a very short time period, using readily available items such as vehicles as weapons, combined with online extremist material providing encouragement and inspiration, these lower-level offences are more serious than they have previously been perceived."

That approach is very much to be welcomed, and I commend the Sentencing Council for its work on these guidelines.

I should also stress that the Sentencing Council, and its Scottish and Northern Ireland equivalents, are independent bodies. The Sentencing Council for England and Wales is governed by the statutory provisions of the Coroners and Justice Act 2009. The council has particular statutory duties, including a duty to consult on guidelines or amendments to guidelines. That consultation duty includes, for example, a requirement to consult with the Justice Committee. There are practical implications, therefore, with requiring the council to issue guidelines six months after Royal Assent, especially when the council cannot begin to consider guidelines until the

Bill receives Royal Assent. However, the guidelines need to be kept up to date to reflect changes to the law, including those made by the Bill. I can assure the Committee that the council is alive to that; indeed, in its consultation on the draft terrorism offences guidelines, it was to some extent able to anticipate the increases to sentences contained in the Bill.

Clause 6 changes the maximum penalty for four offences. We are not rewriting the sentencing provisions for the entirety of terrorism offences, but seeking to update a specific set of offences to make sure that the maximum penalty reflects the severity of the offence. Consequently, we believe that the council will be able to modify the existing guidelines once the provisions to increase penalties in this Bill are enacted. We do not envisage that being a protracted process. As the Committee would expect, we have kept the Sentencing Council apprised of the provisions in the Bill, and the chairman has indicated that the council plans to revisit the guidelines once the Bill has completed its parliamentary passage.

The position in Scotland and Northern Ireland is different. In Scotland, I understand that the Scottish Sentencing Council has not issued any specific guidelines relating to terrorist or terrorism-related offences. There is a similar situation in Northern Ireland. Instead, the judiciary is guided by guideline judgments from the Court of Appeal. I would be happy to alert the Scottish Government and the Northern Ireland Department of Justice to this debate, but we should otherwise leave it to the Scottish Sentencing Council and the Lord Chief Justice's sentencing group to determine how best to proceed. I am sure that is a sentiment that the hon. Member for Paisley and Renfrewshire North would endorse.

I thank the hon. Member for Torfaen for tabling this amendment, and I fully understand his reasons for doing so. However, I hope I have been able to persuade him that the mechanisms are already in place for the relevant sentencing guidelines to be updated to reflect the provisions in the Bill. On that basis, I ask that he withdraw his amendment.

Nick Thomas-Symonds: I am very grateful for those assurances. I welcome the assurance in respect of England and Wales, and the fact that the Sentencing Council is very much alive to this debate and prepared to make further recommendations. I also welcome what the Minister said with regard to Scotland and Northern Ireland. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 6 ordered to stand part of the Bill.

Clauses 7 to 10 ordered to stand part of the Bill.

Clause 11

ADDITIONAL REQUIREMENTS

Question proposed, That the clause stand part of the Bill.

Mr Wallace: Clause 11 strengthens the notification requirements that apply to individuals convicted of terrorism offences or offences with a terrorist connection to enable the police to better manage the risk posed by such individuals. The notification requirements apply to an individual over the age of 16 who has been sentenced to a term of imprisonment of 12 months or more. Such terrorist offenders are required to notify the police of certain information, such as their name, address, date of birth and national insurance number, on release from custody, and to keep such information up to date. The notification requirements apply for up to 30 years, depending on the length of sentence imposed and the age of the offender. Those requirements provide the police and other operational partners with the necessary but proportionate means to monitor the whereabouts of convicted terrorists. They allow the police to assess the risk posed by a registered terrorist offender and, where appropriate, to take action to mitigate any risk posed by an individual.

The notification regime in the Counter-Terrorism Act 2008 operates in much the same way as a similar notification regime for convicted sex offenders. However, the range of information that registered sex offenders must provide to the police was updated in 2012 and is now far more extensive than the information that terrorist offenders must provide. This clause seeks to bring the notification scheme in the 2008 Act more closely into line with that in the Sexual Offences Act 2003. The changes in respect of registered terrorist offenders will strengthen the requirements and ensure that they provide the police with an even more effective risk-management tool.

The changes provided for in this clause are as follows. First, we are adding to the information that RTOs are required to notify to the police to include details of bank accounts and credit, debit or other payment cards; details of passports and other identification documents; phone numbers and email addresses used by the RTO; and details of vehicles that are owned by the offender or that they are able to use. The provision of information about vehicles does not apply to registered sex offenders, but it is considered necessary for intelligence purposes to help build a picture of the RTO's activities and movements.

Secondly, we will require offenders with no fixed address to re-notify their information to the police on a weekly basis. That is to ensure that the risk posed by offenders can be monitored appropriately. Finally, although the point is dealt with in schedule 4 rather than the clause, the Bill requires RTOs to give the police seven days' notice of any overseas travel, rather than, as now, only travel that lasts for more than three days. As now, RTOs will be required to keep that information up to date, so the existing duty to notify the police of any changes will apply. Failure to comply with the notification requirements is a criminal offence, punishable by up to five years in prison.

As I have indicated, the changes to the notification regime will enable the police to better manage the risk of re-offending by convicted terrorist offenders. Much of the additional information that RTOs will be required to notify to the police is already reflected in the sex offender notification regime, and it is high time to bring the 2008 Act scheme into line.

Nick Thomas-Symonds: I rise to support the clause. The registered terrorist offender regime is nothing new and is already set out in the Counter-Terrorism Act 2008. As the Minister set out, the Bill makes a number of

[Nick Thomas-Symonds]

extensions to it, so as to include details of bank accounts, credit cards, passports, phone numbers, email addresses and vehicles.

The Minister was right to draw parallels with the convicted sex offender regime, which was updated in 2012. There is the distinction that vehicle details do not apply to registered sex offenders, but given that vehicles have been used as weapons in terrorist atrocities that we have seen, I do not think it unreasonable to include vehicle details in the clause. In addition, it is welcome that we have the seven days' notice for overseas travel, rather than simply looking at the duration of overseas travel, which was the previous requirement. For all those reasons, the Opposition support the clause.

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Schedule 1 agreed to.

Clause 12

Power to enter and search home

Nick Thomas-Symonds: I beg to move amendment 28, in clause 12, page 13, line 18, at end insert—

"(ba) that there are reasonable grounds for believing that the person to whom the warrant relates has committed an offence;".

This amendment would require a police officer applying for a power to enter and search the home address of a person subject to notification requirements to demonstrate reasonable grounds for believing that the person has committed an offence.

I make it clear at the outset that I hope that the amendment will simply draw an explanation from the Minister as to a particular meaning within the clause. The amendment again refers to the regime in place to deal with registered terrorist offenders. As we discussed, clause 11 will extend the detailed information available regarding an offender's home, vehicle and finances. Clause 12 brings a power to enter and search the home address of a registered terrorist offender. There are already safeguards in the clause, including that there has to be authorisation from a magistrate and that the police have to have twice failed to gain access, and both of those are reasonable.

I do not oppose the idea that there will be circumstances in which the police will need to enter property in that way. I tabled the amendment simply to draw from the Minister a bit more explanation of what is meant in new section 56A(1)(a), which the clause will insert into the Counter-Terrorism Act 2008, by the words

"to enter premises specified in the warrant for the purpose of assessing the risks posed by the person to whom the warrant relates".

I raised this issue with Assistant Commissioner Basu, who—in a very common-sense and perfectly acceptable way—talked about the risk of the person falling back into terrorist activity. Will the Minister be a bit more precise about what the police will look for, including whether this will relate to digital material, flags or other materials? I would appreciate his elucidating on that, because concern has been expressed that, as drafted, "assessing the risks" is rather vague.

The Chair: For Members' information, I am going to—*[Interruption.]* Actually, I will come back to that. I do not want to confuse the Committee; given that I am confused, that will not be very difficult. I call Stephen Doughty.

Stephen Doughty: Thank you, Mrs Ryan. I want to speak about the clause and, with your permission, about my amendment 46, which is starred and would not normally be selectable for today. I wonder whether I might prevail on you to use your discretion; we have made swift progress with the Bill today, and I was obviously followed guidance about when to table these things.

The Chair: If I may interrupt the hon. Gentleman, that is what I was going to say. I will allow you to address your amendment, on the understanding that you will not press it to a vote, as it is a starred amendment. However, we have made considerable progress.

Stephen Doughty: Thank you, Mrs Ryan. I appreciate your using your discretion in allowing me to speak to the amendment. I do not intend to push it to a vote, but I wanted to probe the Minister on this particular issue.

The power to enter and search home addresses is obviously a significant one, and one that needs to be used with great care and caution. While we all recognise the important need for the security services, police and others to undertake operations—often without notice, and with the appropriate guidance on the necessity for doing so—to keep the public safe and to apprehend individuals who may be plotting terrorist activities or other activities that would pose a risk to the public or others, it is also important to balance those powers with necessary caution and care.

10.45 am

I have had the opportunity to discuss some of these issues with the Minister in private, and I appreciate his taking the time to do that, but there have been cases, which he will be aware of, of operations undertaken to apprehend individuals or obtain documents or other evidence from properties—perhaps phones, computers or other items that may be useful to an investigation—where the conduct of those operations has not always been what it should have been. We need to remember that individuals of interest to the security services and the police may sometimes be living at addresses with family members or other individuals who are completely unrelatable to, and innocent of, any crime and have no relation to it. In some cases, they have no awareness at all of the activities of others who are living at that address or who are, as I think the Bill says, usually resident there.

The amendment I have tabled just says that that power would be granted,

"provided that all reasonable steps are taken to avoid injury to, or disruption to the normal activities of other occupants of the premises."

I appreciate that the new power says that reasonable force may be used to enter and search a premises. However, that can sometimes be interpreted as applying just to, for example, breaking down a door or a window to gain access to a property. The question I have is

about officers, for example, entering a property and perhaps roughly pushing aside other members of a family or breaking into the wrong room in a property.

I speak from experience: a house I once lived in was mistakenly raided by the police in relation to drugs offences. *[Interruption.]* Just to make it clear to the Committee, I was not living at the property at the time; I had moved out a few weeks before. However, a genuine mistake was made, and No. 111 was raided instead of No. 11. That is a reasonable mistake, which could be made, but great distress was caused to the occupants—my former housemates—who had of course never committed an offence and were certainly not under investigation by the police. Damage was done to doors and to property; personal effects were damaged and disrupted in quite an upsetting way. One of the individuals had, sadly, just lost their mother to illness, and personal possessions and photos were moved around.

We must remember that there are often innocent individuals in the close families and friendship groups of individuals who may be of interest, and they can be unnecessarily disrupted in this way. The purpose of my probing amendment 46 and the questions I have raised is to hear from the Minister what he understands reasonable force to entail, and how he would expect these powers to be used and applied, whether by the police and security services or by other authorities that might seek to enter a property for the purposes outlined in the clause.

Mr Wallace: Clause 12 confers on police the power to enter and search the home address of a registered terrorist offender. The police consider home visits an important tool to properly manage and risk-assess registered terrorist offenders while they are subject to the notification regime. The clause therefore gives police officers the power to enter under warrant—they have to go to a magistrate to get it—which will allow them to ascertain that an RTO does in fact reside at the address they have notified to the police, and allow them to check compliance with other aspects of the notification regime.

In response to the question from the hon. Member for Torfaen, some of the purposes would be home schooling. If someone was concerned about the welfare of the children of a serious terrorist offender who was back at home, the police would have the power to look at that after applying for a warrant. More importantly, the purpose is compliance with the regime and the conditions on the offender's release. As has been rightly said, I suspect it would be about things such as flags and digital material, whether they have complied, and whether they are doing the sorts of things that they have undertaken not to do.

The sadness about a lot of terrorism is the re-engagement of terrorists. I still remember, 30 years later, a bizarre statistic from my days in Northern Ireland. If a man was convicted of a terrorist offence in Northern Ireland, after serving a sentence of about 10 years he usually stopped being proactive or a leading light in terrorism. He would perhaps engage in the political wing of an organisation, but he would not go back to his previous activity. Bizarrely, women would almost always re-engage. I do not know what that says about women's determination and loyalty to the cause, but I have never forgotten that bizarre pattern. In today's environment, in which some terrorism has a strong ideological bent, we are worried that some individuals re-engage, or try to re-engage, pretty quickly. Unfortunately, therefore, these measures are necessary for us to put certain restrictions on people.

As I said, these measures will allow officers to observe someone's living conditions and identify any indications of a decline in their mental health, drug or alcohol use, family problems or other issues that may indicate an increase in the risk that that individual poses to the public. I will address the point made by the hon. Member for Cardiff South and Penarth later.

In providing for such a power of entry, we are not breaking new ground. The clause mirrors existing provisions in the Sexual Offences Act 2003 in respect of registered sex offenders. Our experience has been that subjects are aware of their requirements and of the police's power of entry, so they tend to co-operate with visits by officers and give them their consent. I am confident that extending that power to enable the management of RTOs will increase the extent to which they co-operate with visits by officers.

We have been careful to place a safeguard on the operation of the power. The clause provides that a warrant can be applied for only if a constable has tried on at least two occasions to gain consent from the RTO to enter their home to carry out a search for the purposes I outlined, and has failed to gain entry. I should also stress that the power is exercisable only on the authority of a warrant issued by a justice of the peace or equivalent, and that any application for such a warrant must be made by an officer of at least the rank of superintendent.

Neil Coyle (Bermondsey and Old Southwark) (Lab): The Minister suggests that the new power will be effective, but the Met has its lowest officer complement for more than 15 years. In the past eight years, my borough has lost more than 400 police officers and police community support officers. How will the Government keep the new power under review to ensure that it can be used by officers and, in the light of the comments by my hon. Friend the Member for Cardiff South and Penarth, to ensure its efficacy?

Mr Wallace: The hon. Gentleman makes the fair point that it is all very well having lots of powers, but we must have the officers to deal with such matters. We have increased funding for counter-terrorism policing to ensure that we have as many such officers as possible. I am confident that the management of terrorist offenders is predominantly down to counter-terrorism officers. It would not be left up to a PCSO or a general beat constable. We have sufficient police officers to deal with this issue.

The power is as much an offender management tool as a criminal justice pursuit tool. It is about how we manage offenders effectively. That is why it is voluntary at first: we ask twice whether we can come and check up on someone, and only then do we resort to the law, which I think will happen rarely. There will probably be a reason when it happens, and that is when we will see a borough commander. People in the constabulary would move resources to address this.

I share the sentiment expressed by the hon. Member for Cardiff South and Penarth that the police and other law enforcement authorities should exercise their powers sensitively. Many members of the Muslim community

[Mr Wallace]

in my constituency live together as large families. It may be that one person is a terrorist offender but no one else is. We all have good and bad neighbours and family members, and we have to respect that.

I reassure the hon. Gentleman that the power to enter and search will be exercised under the powers of entry code of practice, which is issued under section 48 of the Protection of Freedoms Act 2012. The code states that officers entering properties where people are subject to the notification regime in part 4 of the Counter-Terrorism Act 2008 must act reasonably and courteously to persons present and the property, and use reasonable force only where it is assessed to be necessary and proportionate to do so. We all know that that requirement is not always met, and we have to intercede with local police to ensure that our constituents' concerns are addressed.

The amendment would therefore create a provision analogous to the code of practice by which the police already operate, in the context of their seeking twice to be granted entry voluntarily. One hopes that a good police officer would manage to get there without having to resort to the law.

I believe that the safeguards built into the clause are sufficient to ensure that the power will be used proportionately and only when it is absolutely needed by police officers. Introducing a requirement for police officers to have reasonable grounds for believing that an offence has been committed would restrict the use of the power to an unnecessary degree and undermine its primary purpose, which is to ensure that officers can assess the risk posed by a convicted registered terrorist offender at the address they have provided.

It is important to mention that we are dealing with people who have been convicted of an offence rather than those who are suspected of having committed one, so restricting the power of law enforcement forces would get the balance slightly wrong. These people are already offenders, so I believe that our police should have slightly wider powers in this respect.

I remind the Committee that Assistant Commissioner Neil Basu said last week that the power of entry

"is something that allows us to assess the ongoing risk of their re-engaging with terrorism…You might find a flag being displayed. You might find material that is of use to a terrorist. That is the purpose of it."—[*Official Report, Counter-Terrorism and Border Security Bill Committee,* 26 June 2018; c. 25, Q52.]

Given the clear operational need for the provision, I ask the hon. Member for Torfaen to withdraw his amendment.

Nick Thomas-Symonds: I am grateful for that further elucidation from the Minister. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 12 ordered to stand part of the Bill.

Clause 13

SERIOUS CRIME PREVENTION ORDERS

Question proposed, That the clause stand part of the Bill.

Mr Wallace: Clause 13 will make it clear in the Serious Crime Act 2007 that a serious crime prevention order may be made in respect of terrorism offences. SCPOs, which were introduced by the 2007 Act, are court orders that are used to protect the public by preventing, restricting or disrupting a person's involvement in serious crime. They may impose various measures on an individual, proportionate to the risk of that person re-engaging in serious criminal activity.

Such an order may be made by a Crown court—or, in Scotland, by the High Court of Justiciary or a sheriff—in respect of an individual who is convicted of a serious crime, in which case the order would come into effect once its subject was released from custody. Additionally, such orders may be made by the High Court—or, in Scotland, by the Court of Session or a sheriff—where the Court is satisfied that a person has been involved in a serious crime, and where it has reasonable grounds to believe that the order would protect the public by preventing or disrupting the person's involvement in serious crime.

11 am

There is no prescriptive list of the measures that may be applied under such an order, and the measures will vary according to each individual case and the nature of the threat that the person poses. However, the SCPO would include measures such as limiting an individual's travel, access to certain property or access to mobile devices and telephones.

The current list of serious, specified offences for which an SCPO may be granted does not include terrorism offences. The Bill will amend that list by specifically adding terrorism offences to it, which will make it explicit that an SCPO can be made for a terrorist offence. As an additional benefit, it will also make it clear in legislation that terrorism is regarded as a serious offence, as it self-evidently is.

The requirement for an individual to comply with an SCPO will be a useful additional tool for managing the risk posed by a terrorism offender following their release from prison, and will help the police and other operational partners with their task of further protecting the public and preventing terrorism. It is an offence for a person subject to an order to fail to comply with the terms of the order without reasonable excuse. Failure to comply could result in a prison term of up to five years, a fine, or both.

The Serious Crime Act 2015 includes various safeguards, such as the provision for the variation of the terms of an order, and rights of appeal against the making or variation of an order and a refusal by the court to discharge an order.

Nick Thomas-Symonds: I rise to support clause 13. It is self-evident that terrorism is a serious offence, and the SCPO regime, which has been in place since the 2007 Act, can be an important tool in dealing with terror offences.

As the Minister has set out, the SCPO will come into effect when an offender is released from custody with the purpose of preventing or disrupting their involvement in serious crime. Restrictions on travel and access to property or telephones can be part of that. The regime has worked in relation to other serious offences, and it is sensible to extend to it to terrorism.

Question put and agreed to.

Clause 13 accordingly ordered to stand part of the Bill.

Clause 14

TRAFFIC REGULATION

Gavin Newlands: I beg to move amendment 13, in clause 14, page 15, line 20, at end insert—

"(2A) The authority may not impose any charge where the relevant event is a public procession or assembly as defined by section 16 of the Public Order Act 1986 taking place for the purposes set out at section 11(1) of the same Act."

This amendment would ensure that a new power to impose charges in connection with anti-terror measures at events or particular sites would not restrict protest rights through the imposition of costs that organisers are unable to pay.

The Chair: With this it will be convenient to discuss amendment 29, in clause 14, page 15, line 20, at end insert—

"(2A) The authority may not impose a charge where—

(a) the order or notice is made in relation to an event which is a public procession or public assembly; and

(b) the event is taking place for one or more of the purposes set out in section 11(1) of the Public Order Act 1986.

(2B) In subsection (2A), 'public procession' and 'public assembly' have the same meaning as in the Public Order Act 1986."

Gavin Newlands: Amendment 13 is straightforward, so I will not detain the Committee too long. Anti-terrorism traffic regulation orders—ATTROs—allow vehicle or pedestrian traffic to be restricted for counter-terrorism reasons. We have all seen the bollards and barriers that are set up during events to protect the organisers, spectators and those taking part. ATTROs can be temporary or permanent fixtures—as is the case at the moment outside Parliament. The amendment is not about restricting the importance of ATTROs, but ensuring that any new measures that are introduced are proportionate and do not restrict people's ability to protest and demonstrate.

Clause 14 proposes a range of changes to the Road Traffic Regulation Act 1984, including removing the requirement to publicise an ATTRO in advance and allowing the discretion of a constable in managing and enforcing an ATTRO to be delegated to third parties, such as local authority staff or private security personnel.

In addition, the clause would allow the cost of an ATTRO to be recharged to the organisers of an event. It states:

"The authority may impose a charge of such amount as it thinks reasonable in respect of anything done in connection with or in consequence of the order or notice (or proposed order or notice)."

The new charge would be payable by an event promoter or organiser, or the occupier of a site, and relevant events include those taking place for charitable and not-for-profit purposes. Although I see a lot of merit in clause 14, I am concerned that it will stop people gathering for demonstrations.

Amendment 13, which I hope is a common sense amendment, was tabled to address those specific concerns. It would allow an exemption to be made, so that any new power introduced through clause 14 would not restrict an individual's right to protest on a cause that is important to them. Clause 14 certainly will not save a huge amount of money; the Library briefing on the Bill states that it could be as little as £66,000. The amendment is designed to ensure that the right of freedom of assembly and association, as protected by articles 10 and 11 of the European convention on human rights, is not violated due to the organiser of a protest being unable to meet the costs levelled against them.

Last week, Corey Stoughton of Liberty expanded on that in her evidence to the Committee. She said:

"To be consistent with the right to assemble and protest under article 10, there must be a legislative exemption for activity protected by those fundamental rights. That is an exemption that we have seen replicated in other, similar provisions in UK law…A simple fix to this would be to recognise that putting such charges on activity protected by the right to protest and assemble is an undue burden on that activity, and the cost of protecting those events has to fall on the state in the course of its obligation to protect that right."—[*Official Report, Counter-Terrorism and Border Security Public Bill Committee,* 26 June 2018; c. 52, Q109.]

I agree. We have created exemptions in the past to protect our right to protest. The state must protect that right and I think most people, even Government Members, believe that a citizen's right to protest is worth a lot more than £66,000.

Nick Thomas-Symonds: I rise to support amendment 13, and amendment 29 in my name. Although the amendments appear to differ, they are essentially meant to achieve the same thing. I would not dream of entering into a competition with the hon. Member for Paisley and Renfrewshire North about who has the better drafted version.

Nic Dakin: Scotland or Wales.

Nick Thomas-Symonds: Indeed. None the less, they are meant to achieve exactly the same thing.

I have little to add to what has already been set out. At the evidence session I asked Corey Stoughton of Liberty the question about this issue. It is, of course, an article 10 right, and I would not have thought that anybody on the Committee would wish to curtail the right to peaceful protest.

I support the underlying purpose of the clause. Anti-terror measures at events are extremely important, and I see no issue with that, but we have to strike a balance so that they do not restrict legitimate rights of protest. The right of assembly is rightly protected in the European convention on human rights and incorporated into our domestic law under the Human Rights Act 1998. We should protect it, and protect article 10. On that basis, I commend both amendments to the Committee.

Stephen Doughty: I rise to support the amendments, but I wish to raise a separate point about obstructions. First, I want to understand fully from the Minister why all the new powers are necessary. I represent a constituency where we host many major events. We have the National Assembly for Wales, we hosted part of the NATO summit, and we hosted the UEFA champions league final, including the fan zone. I regularly see such measures—bollards, traffic restrictions and blockages—being put in place anyway, so why are all the additional powers necessary? Substantial powers seem to be available to the police and other authorities already to restrict traffic or make areas safe.

Secondly, what steps will the Government take to ensure that appropriate notice of likely disruption is given to residents, or indeed to businesses, in areas that will be affected by the measures? Also, what compensation might be available to those who face significant disruption to, for example, business activity? Obviously, I appreciate that in very short-notice situations, when a specific

[Stephen Doughty]

threat arises, it may be impossible to give appropriate notice, and sometimes things need to be done to protect the public. That should be at the forefront of all our minds. However, we are talking about major events that are planned many months in advance. Unfortunately, I have seen many examples of businesses, in particular, and residents experiencing disruption that could quite easily have been avoided if better information had been made available about safe travel routes, or likely disruption of business opening hours and so on. That can be quite significant.

For the UEFA champions league final there were, rightly, extensive bollards and access gates, and all sorts of other road traffic measures, for several weeks in advance, as well as during and after the event. However, despite the availability of information about the fact that the event was happening, it was not always clear to Cardiff Bay residents—of whom I am one—or businesses what routes would be available, when they would be open, and what disruption was likely. I know of some businesses that lost substantial amounts because the placing of barriers and bollards obstructed the business and impeded access. Such things are side effects of necessary measures, but we must recognise that they are a consequence of holding major events, and of the provisions needed to keep them safe.

I would like, first, to understand why all the new powers are necessary and, secondly, what steps the Minister believes security authorities, police and local authorities should take to mitigate the effect on residents and businesses.

Mr Wallace: I should say at the outset that although ATTROs have been available for a long time they are not a substitute for the existing public order powers to put traffic management systems in place, and for the protection of large crowds. I would not want the measures to be used as a new opportunity for imposing charges when events are held, or for concocting a spurious terrorist link to try to regain money. They are designed for occasions when there is a specific terrorist threat to an event, or when an event is likely to attract a terrorist attack. That might be said of the recent Commonwealth summit, or similar events, as opposed to a champions league football match that is in the diary, a major sporting event that everyone knows is about to happen. For such events the local authority has always had the power under the Road Traffic Regulation Act 1984 to charge the organisers. I would not want a situation in which everything—the galas or village fetes we attend—suddenly becomes a terrorist threat, to some over-eager person.

Gavin Newlands: I appreciate what the Minister is saying. Will he commit, on that basis, to giving further consideration to whether we can tighten the provisions and ensure that what he has said is in the Bill?

Mr Wallace: I was hoping that we would get to this moment, because I have good news: I shall now have to arbitrate on whether Scotland's or Wales's drafting is better.

Nic Dakin: Obviously Wales's.

Mr Wallace: As a former Member of the Scottish Parliament, I may have a different view.

I was going to try to speak to the hon. Member for Paisley and Renfrewshire North, but did not think we would reach the amendment this morning. I am keen to tell him that I agree with his point and—my hon. Friend the Member for North Dorset should brace himself—the point raised by Liberty. *[Interruption.]* The Ministry of Wallace's security portfolio is a broad church.

I am a great believer in the provisions not being used to curtail freedom of expression. I cannot give a 100% guarantee, because we shall have to go through the usual processes, but I have asked to be allowed to run the drafting of the amendments past our lawyers. No doubt they will have another view. Three lawyers in three rooms will produce three versions of the same thing, I suspect—and bill us three times. I am keen to see whether we can accommodate the points that have been made and make it clear that the measure is not a restriction on freedom of expression, and should not be used to restrict it in the future. As I said at the outset, I am keen to get contributions from all, and I look at each one on its merits. The hon. Member for Paisley and Renfrewshire North has a strong point, as does the hon. Member for Cardiff South and Penarth.

11.15 am

Anti-terrorism traffic regulation orders help to keep people safe from the threat of terrorism by enabling local authorities, working with the police, to put in place protective security measures to reduce the vulnerability to, or impact of, an attack on or near roads. Such measures may include the installation of obstructions such as bollards or barriers to prohibit or restrict access to roads or parking. ATTROs can be permanent—such as, for example, the one outside this building that restricts access to the control lane along Abingdon Street—or temporary, for example to protect the venue of an international conference such as the Commonwealth Heads of Government conference held earlier this year. The legislation governing ATTROs has been in place for 14 years—since the passage of the Civil Contingencies Act 2004, which in turn amended the Road Traffic Regulation Act 1984. It is therefore right to take this opportunity to update the legislation and improve the way that these orders operate.

The clause makes four substantive changes to the 1984 Act. First, it removes the requirement to publish notice of an ATTRO in advance if doing so would, in the opinion of the chief police officer, undermine the purpose of having that ATTRO in place—as I said earlier, this is an anti-terrorism rather than a public order measure. If the champions league final has been in the diary for a long time, we obviously expect the chief police officer and local authorities to engage with communities and businesses and say what they are planning to do. However, it may be best not to advertise to everybody that we are implementing anti-terrorism measures because there has been a threat at short notice to a city's Christmas market, for example. We want to give discretion to the chief police officer regarding anti-terrorism measures.

Stephen Doughty: I entirely understand the Minister's point. He mentioned events that have been in the diary for a long time, and I am concerned that more work

should be done to ensure that those access routes are properly handled. Does he agree that wherever possible, particularly for locations that regularly host major events and that may be subject to a general or specific terrorism threat, permanent measures should be put in place in a sensitive way? People can get used to such things and understand why they are there, and there is then no need for sudden changes to road patterns or access points.

The Chair: Order. We are drifting very much into a stand part debate, so I may take the view that we will not need a stand part debate after debating these amendments.

Mr Wallace: You will get no objection from me on that, Mrs Main, and we will certainly try to address these issues comprehensively. I take the hon. Gentleman's point, and part of this is about how good local authorities are at engaging with major events. It depends on whether the unitary, local or district authority is capable of planning for major events.

The police and intelligence services give huge assistance to buildings at the outset—we learned way back in the days of the IRA and the big lorry bombs that if we engage with the built space when buildings are designed and made, a lot of these measures are not necessary. They become part of the aesthetics of the building, and the public are none the wiser that actually they are in a much safer place. I have seen that first hand in the design of some of the newer parts of this building, and in football stadiums. In the long term, that is the best way to ensure that we do not end up with big metal barriers outside buildings and so on. I assure the Committee that parts of the Government engage with these issues on a daily basis—that is their day job. This is not just about protecting critical infrastructure; it is about protective security measures. Every local police force has a number of officers who specifically advise on protective counter-terrorism measures, and they will also engage with hon. Members about how they can make their offices secure, and so on.

The clause confers an express power on a local authority to charge the beneficiary of an ATTRO for the costs associated with the order. In this context, a beneficiary means a person promoting or organising a relevant event, such as a sporting event or street entertainment. Such costs might include the costs of publicising proposals to make an order—including by placing a notice in the local press—the cost of installing the protective security measures and the administrative costs of the local authority in making the order.

It is a long-established principle, under the Road Traffic Regulation Act 1984 and elsewhere, that the beneficiary of traffic regulation orders or similar authorisations should bear the cost. We are simply expressly extending this principle to ATTROs. If a critical national infrastructure site needs additional protective security measures that require an ATTRO, the reasonable costs of the order should be met by the operator of that facility. The same principle applies in the case of a temporary ATTRO used to protect, for example, a road race or, more importantly, a Christmas market, which we have seen targeted in the past. I stress that we are conferring a power, rather than a duty, on local authorities, so they will have discretion to determine when and where to levy a charge.

Kevin Foster (Torbay) (Con): There are a large number of regular events in Torbay, such as the Bikers Make a Difference festival and others. Will the Minister work with the Local Government Association to make sure that clear guidance is issued to councils on the points he makes—that this should not be seen as something that they must do, and that this is not an excuse to levy further charges.

Mr Wallace: I totally agree with my hon. Friend. I will make it clear to police chiefs and to the LGA on the conclusion of the Bill's passing that this should not become a wheeze to either not do something or to impose fines. That is important.

On reducing costs and maximising policing at events, we are also keen to enable the better use of personnel charged with protecting sites subject to ATTROs. To put this in context, the 1984 Act provides that an ATTRO may include a provision that enables a constable to direct that a provision of the order shall be commenced, suspended or revived, or that confers discretion on a constable. We want the police to be able to make more effective use of officers' time and also of the other available resources in providing security for a site protected by an ATTRO.

To that end, subsection (9)(c) will provide that an ATTRO may

"enable a constable to authorise a person of a description specified in the order or notice to do anything that the constable could do by virtue of"

the 1984 Act. Under such delegated authority, it might be left to a security guard or steward to determine when a provision of an ATTRO is to commence or cease operating on a given day. The ATTRO might, for example, provide for a road to be closed off from 10 am to 10 pm, but a security guard could determine that, on a particular day, the road could be reopened an hour earlier.

An ATTRO's ability to confer discretion on a constable may be utilised, in particular, to enable a police officer manning a barrier or gate that has closed off a road to exercise his or her discretion to allow accredited vehicles or persons through that barrier or gate. Subsection (9)(c) would enable another authorised person to exercise such discretion. I suppose that that is where I differ from the hon. Member for Torfaen. I want our police officers to be in a lead position at events. Freeing up constables from checking passes at barriers and handing that responsibility to a security guard enables them to better use their powers at an event. That is why we are keen to give that discretion to constables.

The clause will place on a statutory footing the power of the police to deploy obstructions to enforce compliance with temporary traffic restrictions imposed under section 67 of the 1984 Act. That section empowers the police to deploy temporary traffic restrictions in exceptional circumstances linked to the prospect of terrorism, and to deploy signs on the road indicating what those restrictions are. Those powers currently only relate to vehicular traffic, so the clause will apply them to pedestrian traffic.

Gavin Newlands: I am grateful to the Minister for his comments; indeed, I am heartened. If it makes any difference to his consideration, I am not concerned in

[Gavin Newlands]

the slightest whether he picks the Scottish or Welsh drafting—or the third way he will no doubt find—to amend the clause. With that in mind, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

11.25 am

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

Adjourned till this day at Two o'clock.