

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT LEGAL AID, SENTENCING
AND PUNISHMENT OF OFFENDERS ACT 2012
(COMMENCEMENT NO. 14) ORDER 2019

Monday 2 March 2020

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The Committee consisted of the following Members:

Chair: SIR DAVID AMESS

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| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | † Jones, Mr David (<i>Clwyd West</i>) (Con) |
| † Clark, Feryal (<i>Enfield North</i>) (Lab) | Lammy, Mr David (<i>Tottenham</i>) (Lab) |
| † Glindon, Mary (<i>North Tyneside</i>) (Lab) | † Latham, Mrs Pauline (<i>Mid Derbyshire</i>) (Con) |
| Green, Kate (<i>Stretford and Urmston</i>) (Lab) | † Lopresti, Jack (<i>Filton and Bradley Stoke</i>) (Con) |
| † Henderson, Gordon (<i>Sittingbourne and Sheppey</i>) (Con) | † O'Brien, Neil (<i>Harborough</i>) (Con) |
| † Hopkins, Rachel (<i>Luton South</i>) (Lab) | † Philp, Chris (<i>Parliamentary Under-Secretary of State for Justice</i>) |
| † Howell, John (<i>Henley</i>) (Con) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| † Hunt, Tom (<i>Ipswich</i>) (Con) | |
| Hussain, Imran (<i>Bradford East</i>) (Lab) | Peter Stam, <i>Committee Clerk</i> |
| † Johnson, Dr Caroline (<i>Sleaford and North Hykeham</i>) (Con) | † attended the Committee |

Second Delegated Legislation Committee

Monday 2 March 2020

[SIR DAVID AMESS *in the Chair*]

Draft Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 14) Order 2019

4.30 pm

The Parliamentary Under-Secretary of State for Justice (Chris Philp): I beg to move,

That the Committee has considered the draft Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 14) Order 2019.

It is a pleasure to serve under your chairmanship, as always, Sir David.

The purpose of the draft instrument is to enable the Secretary of State to make alcohol abstinence and monitoring requirements available across England and Wales. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 required that pilots be run before these measures were introduced across England and Wales. Those pilots have now been run in London and Humberside, so this statutory instrument provides for the roll-out across the country by bringing into force section 76 of the LASPO Act, which itself inserts section 212A into the Criminal Justice Act 2003.

This legislation will give courts a new tool to directly address alcohol-related offending. As part of a community sentence, judges and magistrates will be able to impose a ban on drinking alcohol for up to 120 days, using continuous electronic monitoring.

Alcohol-related crime places a huge strain on our society. The most recent figures published in the crime survey for England and Wales of 2018 estimated that 39% of violent incidents were connected with the influence of alcohol, so it is a serious issue. Through enforcing abstinence, AAMRs are designed to mitigate the offending behaviour driven by alcohol and to interrupt the consumption of alcohol that has caused a particular offender to behave as they have done.

As I mentioned, there have been two pilots, as required by the 2012 Act. The first was in London, initiated by the Prime Minister when he was Mayor of London, and the second took place in Humberside, Lincolnshire and North Yorkshire. Those pilots have been subject to five separate evaluations. It is worth saying that AAMRs are imposed on offenders who do not have treatment requirements imposed on them. Where someone has an alcohol problem that requires medical treatment, we do not use an AAMR—it is one or the other.

During the course of the pilot, about 1,500 AAMRs were—*[Interruption.]* We welcome support from all corners of the House. The hon. Member is extremely welcome; we are a very broad church these days. During the pilots, compliance with those 1,500 AAMRs was extremely high. There was a 94% compliance rate in terms of the process being completed, and the compliance rate with alcohol abstinence was 98% in the Mayor's

Office for Policing and Crime area—the London area—and 97% in Humberside and North Yorkshire. The evidence suggests that AAMRs are extremely effective at persuading the offender to abstain from drinking alcohol.

On the kinds of offences for which AAMRs were imposed, in London 45% of the orders were used for violent offenders, and in the Humberside pilot 31% were for offenders where there was a domestic abuse offence.

Sentencers have welcomed the use of these measures. It so happens that one of my parliamentary caseworkers is a magistrate at Croydon magistrates court in London, and anecdotally she has reported that she feels the orders work well. That has been reflected in the more formal feedback via the five studies.

The police also welcome these measures. The Humberside police and crime commissioner, Keith Hunter, said:

“The period in which the offender is tagged will give rehabilitation agencies a real opportunity to work with the individual and get them to recognise and change their behaviour, hopefully for good. I would like to see these orders available nationally as a standard feature of the Criminal Justice System.”

That is precisely what we are doing this afternoon. Moreover, Julia Mulligan, the North Yorkshire police, fire and crime commissioner, said:

“This has proved to be a successful pilot, with many lessons learned along the way. We know alcohol can play a key part in offending for some people, and this appears to have been a positive intervention—reducing offending markedly among those wearing tags.”

It is clear, Sir David, that this has been a successful pilot, and it is right that we activate section 76 of the LASPO Act and get on with making this provision available to magistrates and Crown courts across the entire jurisdiction. In the roll-out, we intend to follow a similar process to that used during the pilot, in that we will do it region by region, starting this year. We expect the full national roll-out to take about 12 months. Once fully rolled out nationally, we estimate that about 2,300 offenders per year will be subject to the orders, although that is a matter for judges, magistrates and the Crown court to decide when passing sentence.

We intend to publish a White Paper on sentencing later this year, which will look at toughening community sentences more generally. I am keen, as is the Lord Chancellor, to make sure that where someone has a substance or alcohol addiction problem, or a mental health problem, we do more to treat the underlying health causes rather than giving a short custodial sentence, which can be ineffective. We are not proposing to abolish short custodial sentences, but where treatment is appropriate we would like to make sure that people receive it to address the underlying causes of their behaviour. That is consistent with our general direction of travel.

In conclusion, the pilots have been successful, and judges and the police welcome the measure. I commend the statutory instrument to the House.

4.37 pm

Bambos Charalambous (Enfield, Southgate) (Lab): It is a pleasure to serve under your chairmanship, Sir David.

We recognise that alcohol is a serious driver for offending in cases of violent assault and domestic abuse. We further recognise that alcohol monitoring tags provide clear benefits and have a prominent role to play in reducing reoffending that is linked to alcohol. We therefore

support giving those who impose sentences the power to use sobriety tags and AAMR orders, where they are appropriate.

We are clear that our support for the tags and AAMR orders is based on the evidence that has been provided by the Government, which the Minister set out eloquently. It shows that there is a high level of compliance and that AAMR orders are an effective way of reducing reoffending driven by alcohol. However, that does not mean that there are no questions that the Government must answer over the national roll-out of AAMR orders.

While the Government have carried out two pilots of AAMR orders in London and across the Humber, Lincoln and North Yorkshire region, we are concerned about the significant length of time that they were in place before the national roll-out. The Government must clarify why the pilots were in place for a number of years—much longer than would have been presumed necessary—and why, after having hopefully learned so much over such a length of time, AAMR orders are now being rolled out nationally only in an incremental way.

The Government must set out whether the two pilots will be independently evaluated, and whether their findings will be publicly available and widely circulated to demonstrate that the evidence base for a national roll-out is built not just on enthusiastic backing from certain stakeholders, but on credible data that demonstrates beneficial impact. Pilots of new technology and procedures will almost always be welcomed to get things right and iron out any issues, but they must also always be open and transparent to ensure that the right lessons are learned.

We are concerned about the Government's track record on electronic monitoring contracts, with the fiasco over 24/7 GPS location tagging fresh in our minds. Originally announced in 2011 for a national roll-out in 2013, those location monitoring tags ended up being delayed for five years at a cost of millions of pounds to the taxpayer, with the supposed cost-saving benefits not now expected to be fulfilled. That alone is serious enough, and should disqualify those involved from participating in the programme of rolling out and administering the use of sobriety tags, but the issues with the tagging contracts go much deeper.

In 2013, the Serious Fraud Office was forced to investigate the irregularities in Serco and G4S's handling of the GPS location tagging contract. A criminal investigation found that Serco had charged the Ministry of Justice for tagging people who were dead, in prison or abroad. With such a record, G4S and Serco must not be allowed anywhere near another tagging contract if the public are to have confidence in the system. The Minister must guarantee today that the delays and costs of the GPS location tags will not be repeated in the case of sobriety tags, so that security and value for money are delivered for the taxpayer.

The Minister must make it clear that, unlike what has been done with the probation service, he will not further reward the failure of private companies in the criminal justice system. Under the Ministry of Justice's public procurement regulations, there is a clear basis for disqualifying Serco, G4S and any others involved in fraud from bidding for and participating in the sobriety tagging programme on the grounds of a significant deficiency, so he must categorically rule it out.

With the prison system stretched to breaking point and internal MOJ figures reporting that our prisons will be full by the end of the year, the Government must set out what provisions are in place to ensure that offenders who breach AAMR orders do not put further undue pressure on our prisons. The Government must ensure that existing alcohol and substance misuse treatment services in our prisons, which are in a dire state, are strengthened to ensure that offenders do not have problems with alcohol and drugs, but have the support that they need.

The London pilot reported that the use of AAMR orders did not place a significant additional burden on stakeholders and responsible officers. The Government must guarantee, however, that that will also be prevented in the national roll-out, particularly considering the substantial understaffing and overworking of people in the National Probation Service that was recently reported by Her Majesty's chief inspector of probation.

With alcohol abuse a significant factor in many domestic abuse cases, I hope that the Minister will heed the advice of stakeholders in the MOPAC pilot, who stated that AAMR orders should be imposed alongside specialist programmes, such as the building better relationships programme, to address the thinking and behavioural causes of domestic abuse reoffending and the ongoing risk of further abuse and harm. I hope that the Government will commit to naming a date by which the domestic abuse Bill will finally be reintroduced to Parliament after being dropped twice. I have learned that it may receive its First Reading tomorrow, but I wait to hear if the Minister is aware of that.

I hope that the Minister will commit to ensuring that the national roll-out of sobriety tags will not end up like previous MOJ contracts, give a guarantee that the contracts will neither overrun nor overspend, and make a firm pledge that G4S and Serco will be disqualified from the process, based on their previous conduct, so that the public and sentencers can have the confidence they need in the programme.

4.43 pm

Chris Philp: I will respond briefly to some of the points raised by the shadow Minister. I thank him for his intention not to divide the Committee and for the constructive and thoughtful tone of his remarks.

The hon. Gentleman mentioned the domestic abuse Bill. It is not my policy area, but I believe that it is the intention to introduce it in the House in the extremely near future, so it will be taken forward. We have clearly had a somewhat disrupted 12 months or so, with various things impeding the passage of legislation, but the Bill is important, as he rightly says, and we are moving on with it at pace now that we have a more stable political environment.

The hon. Gentleman asked why the pilots took so long. When we are piloting a new criminal justice intervention, it is right that we do it thoughtfully, rather than in a hurry. There are examples of interventions that were rushed and not properly thought through. It is reasonable that, before we change the law, as we are doing today, we pilot a measure in a considered and thorough way. As I said, five evaluations have been conducted. He asked about the roll-out programme and, again, we do not want to rush it. We want to make

[Chris Philp]

sure that it is done properly in each region in turn. Getting it done in the space of 12 months or so is not an unreasonably long time.

The hon. Gentleman asked about the release of the evaluations. The evaluations are independent, and we believe that those done on behalf of MOPAC and on behalf of Humberside, Lincolnshire and North Yorkshire will be published publicly. He will be able to read them in due course.

There have in the past been serious problems with the tagging contracts, which the hon. Gentleman referred to. Of course, any private sector contract, particularly in the area in question, will be monitored carefully for all the reasons he mentioned.

The hon. Gentleman asked about breach. Clearly, if someone who is given an AAMR breaches the requirement by taking the tag off or drinking when they are not supposed to, that will in the first instance be a matter for the probation service. It could escalate the matter to, for example, a magistrate who would be able to take appropriate follow-up action. The magistrate's range of options would include another community order, a fine or, in extreme cases, imprisonment.

I completely agree, on the question of treatment, that it is critical that if someone has a serious health problem—whether that is drug or alcohol addiction or a mental health problem—we seek to treat it. AAMRs are not about treating people with serious addiction. Alcohol

treatment requirements are designed to do that. However, AAMRs have a role to play with people whose drinking is problematic but falls short of addiction meeting the medical threshold requiring treatment, for which separate ATRs are in place.

John Howell (Henley) (Con): The Minister makes a distinction between the AAMR and medical treatment. Is he happy that that is a robust distinction that can be upheld in practice?

Chris Philp: Of course, it is always for the magistrate or Crown court to decide on which side of the line a particular patient falls, but, as I have said, we shall be returning to this area in the sentencing White Paper to be published later in the year. A critical part of that will look at ways to deepen and widen treatment for people who have addiction and mental health problems. The question that my hon. Friend raised will be addressed in the White Paper and I strongly encourage him, and others with expertise of the kind he has, to contribute to the thinking about that. It is exactly the sort of question that we shall address.

I hope that I have been able to respond, briefly, to some of the questions that were raised. I once again commend the instrument to the Committee.

Question put and agreed to.

4.48 pm

Committee rose.

