PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

POLICE, CRIME, SENTENCING AND COURTS BILL

Twelfth Sitting

Thursday 10 June 2021

(Afternoon)

CONTENTS

SCHEDULE 10 agreed to.
CLAUSES 98 TO 100 agreed to.
SCHEDULE 11 agreed to.
CLAUSES 101 TO 105 agreed to.
Adjourned till Tuesday 15 June at twenty-five minutes past Nine o'clock.
Written evidence reported to the House.

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

not later than

Monday 14 June 2021

The Committee consisted of the following Members:

Chairs: † Sir Charles Walker, Steve McCabe

Anderson, Lee *(Ashfield)* (Con)
† Atkins, Victoria *(Parliamentary Under-Secretary of State for the Home Department)*
Baillie, Siobhan *(Stroud)* (Con)
Champion, Sarah *(Rotherham)* (Lab)
† Charalambous, Bambos *(Enfield, Southgate)* (Lab)
† Clarkson, Chris *(Heywood and Middleton)* (Con)
† Cunningham, Alex *(Stockton North)* (Lab)
Dorans, Allan *(Ayr, Carrick and Cumnock)* (SNP)
† Eagle, Maria *(Garston and Halewood)* (Lab)
† Goodwill, Mr Robert *(Scarborough and Whitby)* (Con)
† Higginbotham, Antony *(Burnley)* (Con)
Jones, Sarah *(Croydon Central)* (Lab)
Levy, Ian *(Blyth Valley)* (Con)
† Philp, Chris *(Parliamentary Under-Secretary of State for the Home Department)*
† Pursglove, Tom *(Corby)* (Con)
Wheeler, Mrs Heather *(South Derbyshire)* (Con)
Williams, Hywel *(Arfon)* (PC)

Huw Yardley, Sarah Thatcher, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 10 June 2021

(Afternoon)

[Sir Charles Walker *in the Chair*]

Police, Crime, Sentencing and Courts Bill

Schedule 10

Cautions: consequential amendments

Amendment proposed (this day): 117, in schedule 10, page 228, line 15, leave out sub-paragraphs (2) and (3) and insert—

"(2) In paragraph 1(1)—

(a) for '—' substitute 'at the time the caution is given.', and

(b) omit sub-sub-paragraphs (a) and (b)."—

(Alex Cunningham.)

This amendment would remove the spending period for cautions.

2 pm

Question again proposed, That the amendment be made.

The Parliamentary Under-Secretary of State for the Home Department (Chris Philp): I trust that everyone has returned from lunch re-energised and refreshed. I want to respond to one or two of the points made prior to lunch by the shadow Minister, the hon. Member for Stockton North. In moving the amendment, he argued that the diversionary caution should not have a rehabilitation period of three months from the date of the caution being given or, if earlier, the date on which the caution ceases to have effect because the conditions have been met.

I understand the hon. Gentleman's point, but none the less I respectfully disagree with him, for the following reasons. First, the offences for which a diversionary caution might be given include offences of a certain degree of gravity. They are offences where there was sufficient evidence available to prosecute, and had that prosecution proceeded, a far more serious penalty, including a longer spending period, would have been applicable. There is a balance to strike between a desire to let the offender move on with their lives and public protection, and the relatively short spending period—only three months, which is not very long—aims to strike that balance.

Secondly, it is important that we distinguish between the diversionary caution and the community caution. One of the ways in which we do so is the fact that the diversionary caution has a three-month spending period until rehabilitation, whereas the community caution does not. Were we to remove that, it would diminish the difference between those two forms of caution. That sort of hierarchy, as I put it before lunch, is important, and we should seek to preserve it, reflecting the fact that diversionary cautions are more serious that community cautions.

There is also a third reason, which occurred to me during the shadow Minister's speech. Given that the caution can be extinguished, in terms of the need to disclose it, the offender has an incentive to meet the conditions early within the three months. The conditions might include the need to attend a particular training course or to commence a treatment programme if they have a drug or alcohol problem. Saying that the offender has been rehabilitated at the point at which they meet the condition creates an incentive for them to meet it sooner rather than later. We should bear that in mind. Although I understand where the shadow Minister is coming from, for all those reasons I urge the Opposition to withdraw the amendment.

Alex Cunningham (Stockton North) (Lab): I am a little saddened and disappointed that, for all he has said, the Minister does not recognise the real impact that disclosure can have on people, perhaps preventing them from getting a job or even resulting in them losing their job. That is a great sadness. He says that three months is not a very long time, but a person has to report a caution to their employer on the day they receive it, and it could result in their dismissal. Similarly, anyone applying for a job would have to disclose it to the employer, which may well result in them losing that employment opportunity and the chance to turn their life around. Moreover, if an officer is content that a caution is appropriate, why on earth is the additional punishment of a disclosure period being sought? I intend to press the amendment to a Division, simply because I think it is in people's best interests and represents for the individual given a caution the best chance to change for the better.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 6.

Division No. 14]

AYES

Charalambous, Bambos	Eagle, Maria
Cunningham, Alex	

NOES

Atkins, Victoria	Higginbotham, Antony
Clarkson, Chris	Philp, Chris
Goodwill, rh Mr Robert	Pursglove, Tom

Question accordingly negatived.

Schedule 10 agreed to.

Clause 98

Regulations under Part 6

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

The Chair: With this it will be convenient to consider clause 99.

Chris Philp: These clauses essentially assist with the implementation of the measures we have debated. Clause 98 sets out that regulations under part 6 are to be made by statutory instrument and the parliamentary procedure applicable. It also provides that regulations may make different provisions for purposes and consequential, supplementary, incidental, transitional and transitory provisions and savings. It would not be possible, or indeed appropriate, for all the detail to be set out in the Bill; there is simply too much, and doing so would entail a certain lack of flexibility, as we often discuss. The clause provides the appropriate parliamentary procedure to fill in those details as appropriate, which we will of course debate as they arise. However, the key principles are clearly set out in the Bill, as we have debated.

Clause 99 sets out certain definitions that are relevant for part 6 of the Bill—the out-of-court disposal provisions. The clause is essential to provide clarity in making sure that the new framework, which we spent this morning debating, is properly, accurately and precisely interpreted.

Question put and agreed to.

Clause 98 accordingly ordered to stand part of the Bill.

Clause 99 ordered to stand part of the Bill.

Clause 100

Minimum sentences for particular offences

The Chair: With this it will be convenient to consider schedule 11.

Chris Philp: Clause 100 amends the criteria applied for when a court may depart from imposing a minimum sentence. Minimum sentences are rare in this jurisdiction, and generally speaking, but not always, they apply to repeat offences. These minimum sentences are not, technically or legally speaking, mandatory or completely binding on the court, but it is mandatory that the court must consider passing that minimum sentence. The court may depart from imposing that minimum sentence only by having regard to the particular circumstances of the offender and the nature of the case, so an element of judicial discretion is retained.

However, given that Parliament has legislated to set out these minimum sentences, we think it right that the court should depart from the minimum sentences specified by Parliament not by having regard to the particular circumstances of the case but only in exceptional circumstances. In effect, the clause raises the bar for when a judge can depart from these minimum sentences; it tells the judge that circumstances must be exceptional before the minimum sentence is disregarded, to make sure that Parliament's will in this area is better reflected by the sentences the court hands down.

Clause 100 will cover four offences: threatening a person with a weapon or bladed article, which carries a minimum sentence of four years; a third offence in relation to trafficking a class A drug, which carries a minimum sentence of seven years; a third domestic burglary offence, which carries a minimum sentence of three years; and a repeat offence—a second or higher offence—involving a weapon or bladed article. The clause strengthens the minimum sentences in those cases and makes it harder for the judge to depart from the minimum, or reduces the range of circumstances in which such a departure might occur. Three of the four offences are repeat offences; the fourth is a first-time offence. They are fairly clearly defined offences for drug trafficking or domestic burglary, where Parliament clearly decided in the past that there was less necessity for judicial discretion.

Schedule 11 makes consequential amendments to existing legislation as a result of clause 11, to give effect to what we have just discussed. The amendments are to section 37 of the Mental Health Act 1983 and to the Armed Forces Act 2006.

These offences are serious. In the past, Parliament has taken a view that a minimum sentence is appropriate, particularly for repeat offences. It is therefore appropriate that we today make sure that the courts follow Parliament's view as often as possible.

I asked for figures on how often judges depart from the minimum sentences. For the burglary offence, the data is a couple of years old, but it looks like the court departed from the minimum sentence in that year in about 37% of cases, so in quite a wide range of cases. It is on that basis—to tighten up the strength of minimum sentences—that we are introducing clause 100 and schedule 11 today.

Alex Cunningham: As the Minister said, clause 100 would change the law so that for certain offences a court is required to impose a custodial sentence of at least the statutory minimum term unless there are "exceptional" reasons not to. This is a change from allowing the court to impose a custodial sentence of at least the minimum unless there are "particular" reasons not to.

The offences and their statutory minimums are: a third-strike importation of class A drugs, with a seven-year minimum sentence; a third-strike domestic burglary, with a three-year minimum sentence; a second-strike possession of a knife or offensive weapon, with a six-month minimum; and threatening a person with a blade or offensive weapon in public, with a six-month minimum.

As the Minister has pointed out, the effect of clause 100 is relatively simple, although the Opposition are concerned that it will also be profound. The law currently allows for minimum custodial sentences to be handed down to those who repeatedly offend. As things stand, judges can depart from the minimum sentences when they are of the opinion that there are particular circumstances that would make it unjust not to do so.

Despite what the Minister says about judicial discretion, the proposition put forward by the Government seems to be that the Government are concerned that the judiciary has been too lenient when imposing minimum sentences, and therefore the law needs to be strengthened in this area. The Government's solution is to change the law so that for certain repeat offences, a court is required to impose a minimum term unless there are exceptional circumstances not to. In a nutshell, clause 100 seeks to make it harder for judges to exercise their discretion and moves away from the statutory minimum sentence for a small number of offences.

2.15 pm

The offences that clause 100 applies to are the trafficking of class A drugs, domestic burglary, possession of a knife or offensive weapon, and threatening a person with a blade or an offensive weapon in public. The Opposition have two main concerns with clause 100. The first is why the change is being made now and what evidence exists that it is actually necessary. When the Sentencing Council considered the Government's intention to make changes to mandatory minimum sentences for these offences, it was clear in its response:

> "We would however counsel strongly against any substantive changes to these mandatory sentences. At present, the regime is quite clear, and courts have been applying the criteria without difficulty…Parliament should not try and pre-empt this exercise of judicial discretion. At the very least, the Government should undertake or commission research into the ways that courts have exercised their discretion in this regard. Until, and unless, the Government can demonstrate that judges have been excessively indulgent, or that the provisions are misfiring in some way, amendments are unnecessary and inappropriate. To date, the Government has offered no such demonstration."

The Sentencing Council is not the only body concerned about the reasoning behind this move. The Bar Council also advised against it, arguing that clause 100

"will prevent judges from being able to exercise the necessary discretion to hand down a sentence based on the circumstances of the case."

It said that the clause will also

"increase the prison population, which is already under significant strain."

Bambos Charalambous (Enfield, Southgate) (Lab): My hon. Friend is making an excellent point. Judges know the case and the circumstances of it, so they are better placed to use their discretion, taking into account the particular set of circumstances, which we cannot know about when we are passing something that gives carte blanche on a particular sentence minimum.

Alex Cunningham: Yes, that is very much the case. These organisations all make the same point: we are limiting the judges' discretion. We are limiting the discretion of the individual who best knows the case, as they have actually heard the case, so it is certainly worrying. In fact, in the sentencing White Paper, the Government note that "concerns have been raised", and that some repeat offenders are receiving too-lenient sentences, but they fall short of naming a single body that supports that view.

In the same vein, rather than presenting the evidence for change, the White Paper highlights only a single statistic in relation to those convicted of a burglary who receive a sentence lower than the minimum three-year term. I am sure I do not have to remind the Minister that that is as single statistic relating to a single offence out of his list of four. I ask him a very simple question: what evidence has he brought to the Committee today to show that judges have been unduly lenient when sentencing repeat offenders in relation to the importation of class A drugs, possession of a knife or offensive weapon or threatening a person with a blade or offensive weapon in public?

The second of the Opposition's concerns is how the proposed changes to clause 100 will further entrench the already shameful levels of racial disparity in our criminal justice system. As the Minister is all too aware, since the Lammy review was published in September 2017, racial disparity in the criminal justice system has got considerably worse. The statistics speak for themselves. Black offenders are 26% more likely than white offenders to be remanded in custody, while the figure for black women is 29% more likely. Offenders from black, Asian and minority ethnic backgrounds are 81% more likely than white offenders to be sent to prison for indictable offences, even when factoring in higher not guilty plea rates. Over one quarter—27%—of people in prison are from a minority ethnic group, despite the fact that they make up 14% of the total population of England and Wales. If our prison population reflected the ethnic make-up of England and Wales, we would have over 9,000 fewer people in prison—a truly staggering figure.

That is before we even begin to touch on disproportionality in the youth system, which is even more pronounced. For the first time, young people from a BAME background now make up 51%—over half—of those in custody, despite that group making up only 14% of the population. The proportion of black children who are arrested, cautioned or sentenced is now twice what it was 10 years ago, and the proportion of black children on remand in youth custody has increased to over a third.

When my right hon. Friend the Member for Tottenham (Mr Lammy) was asked by the then Conservative Government to carry out his review, he did so in the belief that that Government, and successive Governments, would implement the recommendations he made. Sadly, that was not the case. At the last count, fewer than 10 of the 35 recommendations had been fully implemented. Perhaps the Minister will explain whether that is still the case today and, if so, why the Government have made so little progress on that in the last four years.

The picture emerging from this Government is that they do not care about reducing racial disparities in our criminal justice system, which is not an accusation I make lightly. Statement after statement recognising the disparities and promising change appears to be no more than lip service. Worse still, many of the measures in the Bill will further entrench racial inequality in the criminal justice system—one of them being the introduction of clause 100. It is abundantly clear that the clause will have a disproportionate impact on offenders from a black, Asian or minority ethnic background.

We know from a Government report published in 2016 that for drugs offences the odds of receiving a prison sentence were around 240% higher for black, Asian and minority ethnic offenders than for white offenders. Even the equalities impact assessment that accompanies the Bill acknowledges an over-representation of certain ethnic groups and the increased likelihood of their being sentenced to custody and given a longer sentence. It states:

"We recognise that some individuals with protected characteristics are likely to be over-represented in the groups of people this policy will affect, by virtue of the demographics of the existing offender population."

Mr Robert Goodwill (Scarborough and Whitby) (Con): The figures the hon. Gentleman quotes are of great concern. Is he suggesting that judges show bias and discrimination in the sentences they give?

Alex Cunningham: I am not. The point I am making is that the Government are driving an agenda that will result in more black, Asian and ethnic minority people ending up in the criminal justice system and suffering even greater sentences.

The Government's own equalities impact assessment goes on:

"BAME individuals appear to have high representation in the Class A drug trafficking cohort and possession of or threatening with a blade… As a result, the proposal may put people with these protected characteristics at a particular disadvantage when compared to persons who do not share these characteristics since they may be more likely to be given a custodial sentence and serve longer sentences than before."

The Minister could do no better than looking to America to see how three-strike drug laws have had a horrific impact on disproportionality rates in the criminal justice system. As he will no doubt be aware, the three-strikes crime Bill that was introduced by Bill Clinton in the 1990s has been roundly criticised by all sides of the American political spectrum. Democrats, Republicans and even Bill Clinton himself have spoken of how the Bill was a grave mistake that contributed to overpopulated prisons and a mass incarceration of BAME offenders in particular.

What makes this all the more astonishing is that this Government have gone to some lengths in recent times to state their commitment to reducing racial disparity in

the justice system. In his foreword to the latest update on tackling race disparity in the criminal justice system, the Lord Chancellor made it clear that addressing the over-representation of people from ethnic and racial minorities was a personal focus for him—that was very welcome. Will the Minister explain, then, why the Government chose not to undertake a full equalities impact assessment of how measures in the Bill could have a detrimental impact on minority groups? Given that many of the measures in the sentencing White Paper involve serious sentence uplifts, it is absolutely critical that the Government fully understand how those from minority backgrounds could be disproportionately impacted. As I have explained, failing to do so runs the risk of further exacerbating the already horrendous disparities that we see in the system today. Is the Minister content to see such disparities widen even further, or will he outline today just what the Government will do to address this issue?

Maria Eagle (Garston and Halewood) (Lab): Does my hon. Friend agree that being against this kind of disparity is all well and good, but the only way one can reduce it, which I believe is the Government's policy, is to be very careful—moving policy initiative by policy initiative, and change in the law by change in the law—that new measures take into account the impact of such changes on that disparity?

Alex Cunningham: I most certainly do agree with my hon. Friend. That is why we posed the question: why has there not been a full impact assessment of the impact of these measures on the BAME community? I would go so far as to challenge the Minister and his Government not just to outline the measures they will take to end these disparities but to set themselves some targets to end this injustice once and for all.

The final point I will touch on is how the Government came to a decision on which of the four offences they have included under the scope of clause 100. I remind the Committee that they are trafficking of class A drugs, domestic burglary, possession of a knife or offensive weapon, and threatening a person with a blade or offensive weapon in public. Although those are undoubtedly serious crimes, we have some concerns that focusing on such a small cohort of crimes risks missing the larger criminal forces that are at work in our country.

Take possession of a knife or offensive weapon, for example. All too often when we think of knife crime, the focus of our thoughts is on young men—often young BAME men from a disadvantaged background—carrying knives as part of a gang. Yet this image is deeply simplistic and misses the greater criminal forces at play. As my right hon. Friend the Member for Tottenham pointed out, most of the time knife crime is not being driven by youths but by a sophisticated network of veteran organised criminals. As he wrote in *The Guardian* so eloquently:

> "Young people falling into the wrong crowd in Tottenham, Salford or Croydon know nothing about the trafficking of tonnes of cocaine across our borders every single year. They know nothing of the shipment routes from Central and South America that have made London a cocaine capital of Europe. They know nothing of the lorries, container vessels, luxury yachts and private jets that supply our nation's £11bn-a-year drug market….This isn't about kids in tracksuits carrying knives, it's about men in suits carrying briefcases. It is serious criminal networks that are exploiting our young people, arming them to the teeth and sending them out to fight turf wars."

Mr Goodwill: The hon. Gentleman makes some very valid points. Does he agree that this issue is also about middle-class people taking illegal drugs and fuelling this terrible trade?

Alex Cunningham: I certainly agree with the right hon. Member for Scarborough and Whitby, and I have given his constituency its full title—how on earth could I ever forget Whitby, when it is one of my favourite destinations for a day out? I am sure he will understand why that is the case. For me, this issue is about how we tackle the guys with the briefcases and not just the young men on the streets? How do we make sure that we deal with organised crime? We have seen some great results recently in my own constituency and across the Cleveland police area, where there have been raids on individual houses and the police found large amounts of drugs. However, those drugs are finding their way in through Teesport and through the Tyneside ports as well. We are failing to get to the people who are driving the entire trade and we need to do much, much more to do so.

With the National Crime Agency currently prioritising cyber-crime, child sexual exploitation and terrorism, and the Serious Violence Taskforce having been disbanded recently, I would be grateful if the Minister could explain how anything in clause 100 will tackle serious organised criminality.

To conclude, the Opposition have deep concerns about the introduction of the power in clause 100. We worry that it has been introduced without an evidential basis, without consultation with impacted groups, and without a full equalities impact assessment. Even more importantly, we worry that it will further entrench the already shameful levels of racial disparity in our criminal justice system while failing to tackle the underlying causes of the crimes that we have been discussing. I look forward to hearing the Minister's response, which I hope will address the issues that I have raised.

Chris Philp: Let me respond to some of the questions and points that the shadow Minister raised in his speech. First, I should be clear that in forming the proposals the Government have considered carefully, in accordance with the public sector equality duty under the Equality Act 2010, the impact that these changes in the law might have on people with protected characteristics, including race. The full equality impact assessment was published alongside the draft legislation, and I can confirm that it is publicly available should anybody want to scrutinise it.

2.30 pm

The shadow Minister asked why these measures are being introduced, and he asked for the evidence base for doing so. He mentioned evidence that appeared in the original White Paper published last September. I gave a statistic in my speech introducing the clause about the proportion of cases where the minimum is disapplied for the burglary offence. I said it was over a third. I should add that those are unpublished figures. They have not gone through the usual verification process, but it is clearly over a third. That is a single further bit of evidence demonstrating that judges are departing quite a lot.

It is important to specify that departures should be exceptional rather than simply particular, because Parliament has taken the time and trouble to specify these minimum sentences. It has done so after careful

and due consideration. It is very unusual, as we might debate later, to have minimum sentences, even for repeat offenders. Having given the matter such careful consideration in the past, it seems reasonable to expect judges to implement that, unless there are exceptional circumstances. We are simply talking about somewhat elevating the test before judges depart.

There is still residual judicial discretion; if a judge thinks there is an exceptional circumstance that means that the minimum is not appropriate, the judge can still not give the minimum—their hands are not completely tied. This is just about making it clear to those handing down sentences that this should be exceptional rather than more routine. There is data that shows that the departures are quite widespread. I have mentioned some, and the shadow Minister referred to the White Paper. But beyond the data there is also the point of principle I mentioned a moment ago about making sure that Parliament's intent is reflected in the sentences that are, in practice, handed down.

On racial disparity, these measures will in some sense mitigate against any implied systemic bias, which I do not, by the way, accept exists in the sentencing context. They actually make the application of the sentence more mechanistic; they just specify, almost as a formula, that if a particular set of circumstances is met, a certain sentence follows. That makes the system almost automatic and reduces the discretionary element. If someone does not want to have the minimums applied to them, they should not commit the offence in the first place.

But there clearly are issues that the Government want to address. This is a broader topic, and I do not want to dwell on it, because it is probably out of scope. There are obviously wider issues of racial disparity in the criminal justice system, which the shadow Minister referred to. A very good and comprehensive statement was made on this topic by the Under-Secretary of State for Justice, my hon. Friend the Member for Cheltenham (Alex Chalk), a few months ago. I strongly commend his statement, because he went through the recommendations resulting from the Lammy review—I am probably allowed to say that, given that it is the name of the report, and I am not referring to a colleague by their name—demonstrating in each of the various cases what concrete action was being taken to address the concerns that the review uncovered. As the shadow Minister said, the Government do want to take action to make sure the justice system is always fair and is seen to be fair.

Maria Eagle: Does the Minister accept that despite the Government's intentions, good as they may be, to reduce disparity, the reality is that it is not reducing and has not reduced since the report was published? Does he therefore accept that the Government need to do more?

Chris Philp: I have not seen the up-to-date data for the past year, but I accept that we need to pay continuous attention to these issues. We need to make sure that the justice system always behaves in a fair and even-handed manner. Clearly, we accept that we need to be eternally vigilant on that front.

To return to the topic of this clause, it is simply about making sure that the decisions taken by previous Parliaments are reflected in the way in which judges take their decisions. We also need to ensure that departing from what Parliament has specified happens only in exceptional cases. Believing as I do in parliamentary sovereignty, that seems reasonable to me.

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

The Committee divided: Ayes 6, Noes 3.

Division No. 15]

AYES

Atkins, Victoria	Higginbotham, Antony
Clarkson, Chris	Philp, Chris
Goodwill, rh Mr Robert	Pursglove, Tom

NOES

Charalambous, Bambos	Eagle, Maria
Cunningham, Alex	

Question accordingly agreed to.

Clause 100 ordered to stand part of the Bill.

Schedule 11 agreed to.

Clause 101

WHOLE LIFE ORDER AS STARTING POINT FOR PREMEDITATED CHILD MURDER

Alex Cunningham: I beg to move amendment 1, in clause 101, page 86, line 41, at end insert—

"(bb) the abduction, sexual assault and murder of a person not previously known to the offender,".

The amendment would extend the whole life tariff captured by the clause to someone guilty of the murder, abduction and sexual assault of a stranger. Later in my speech I will provide substantial detail on why we should do that.

First, I want to demonstrate the Opposition's support for what the Government are tyring to do with this particular clause. As the Minister will no doubt point out later, a whole life order is the most severe sentencing option available to members of the judiciary in England and Wales. Only a small number of criminals a year will ever be convicted of a crime so exceptionally terrible that it warrants such a punishment. The effect of a whole life order is as simple as it is final. Once sentenced, the offender loses any right of a sentence review. They will spend the rest of their lives in prison, without any possibility of hope or release. From the moment they are sentenced, they will never again set foot outside prison.

The decision to deprive someone of their liberty indefinitely is a daunting one, and I do not envy the enormous responsibility placed at the door of the judges who hear these types of cases. None the less, as an Opposition we are pragmatic. Although we are strong believers in the power and importance of rehabilitation, we accept that some offenders are so uniquely evil that even our greatest attempts to reform them would most likely be in vain.

One only has to consider some of the handful of offenders who have received a whole life order to realise the type of criminality we are dealing with. Ian Brady and Myra Hindley, the Moors murderers, were convicted of the torture and murder of three innocent children between 1963 and 1965. I was eight, nine and 10 years

old during that time, and I actually remember the television reports. Dennis Nielsen was a former policeman who murdered and dismembered at least 12 young men and boys between 1978 and 1983. Rose West collaborated with her husband in the torture and murder of at least nine young women between 1973 and 1987, including her eight-year-old stepdaughter. Harold Shipman, the infamous GP, is thought to have been responsible for the murder of over 200 women who trusted him with their care and wellbeing. Peter Sutcliffe, the Yorkshire Ripper, murdered 13 women and attacked seven others in a killing spree that terrified the nation between 1975 and 1980—the list goes on. Each of those names will live in the consciousness of the nation for evermore. Each was found guilty of crimes so extraordinarily evil that their actions cannot, and should not, be forgotten.

Today, we have before us the question whether to extend the list of crimes for which a whole-life order can be handed down. Under the current sentencing framework, a whole-life order can be given only for

"the murder of two or more persons where each murder involves a substantial degree of premeditation, the abduction of the victim, or sexual or sadistic conduct… the murder of a child if involving the abduction of the child or sexual or sadistic motivation… the murder of a police or prison officer in the course of his duty… a murder done for the purpose of advancing a political, religious or ideological cause; or… a murder by an offender previously convicted of murder."

The clause will widen that list to cover the murder of a child if that murder can be shown to have involved a substantial degree of premeditation or planning.

In coming to a decision on whether that is a proposal the Opposition can support, we must first understand how many additional offenders the Government estimate will be caught by such a change in the law. The Government's impact assessment acknowledges that whole-life orders are

"an exceptionally rare sentence, with fewer than 5 given out per year on average over the past decade."

It goes on to note that the measure is expected to increase the number of whole-life orders handed out by

"a maximum of about 10 offenders per year".

The Sentencing Academy response to the sentencing White Paper noted that the requirement of a substantial degree of premeditation or planning should mean that the number of offenders caught by that charge would be relatively small.

None the less, the Government must face the fact that widening the list of offences that can attract whole-life orders will naturally put an already overstretched prison system under even greater strain. As the Minister will have seen, only last week, an internal survey by the Prison Officers Association showed just how precarious the system is in our prisons. That survey showed that 85% of prison officers report feeling burned out; more than 40% of prison staff are suffering moderate or severe anxiety symptoms; and more than 80% feel that their mental and physical health have got worse during the pandemic. That is on top of what we already know—that our prisons are already overcrowded and understaffed, and are hotbeds of crime, as I said in my contribution to the driving offences debate earlier this week. Therefore, I would be grateful if the Minister today committed himself and the Government to ensuring that all the toughest sentences in the Bill—not just in the clause—will be properly resourced and funded. Can we have an assurance that whole-life orders will remain a sentencing option only for those who have committed the worst offences?

We must now consider whether the premeditated murder of a child is as heinous a crime as the other crimes that can attract a whole-life order. On that point, the Opposition are clear: it certainly is. The law allows for whole-life sentences to be handed down to those who murder a child following the child's abduction, or if the murder involves sexual or sadistic motivation. However, the Opposition agree with the Government's point that any murder of a child committed with a high degree of premeditation should also warrant a whole-life order. What we are talking about here is a purely evil act—killing someone in the prime of life, taking away their opportunity to go to university and to forge a career, and taking away their hopes of settling down and having a family.

For a whole-life order to be handed down, the current legal framework requires the killing of a child to involve abduction or a sexual or sadistic motivation. That raises the question, how can it be possible for the murder of a child not to involve a sadistic intention? When someone chooses to take the life of a child, they do so in the knowledge of the immense pain it will cause the loved ones of the victim for the rest of their lives. Thankfully, the number of offenders who commit the murder of a child with a high degree of premeditation is relatively small, but Labour fully agrees that those in that group of offenders deserve to spend the rest of their life in prison, not only to protect society, but to ensure that their sentence reflects the horrendous nature of their crime.

2.45 pm

That is not the only horrific crime to which Labour feels whole-life orders should be extended. We believe they should be extended to those who abduct, sexually assault and murder a stranger. Let me therefore turn specifically to amendment 1, which would insert at the end of the clause the words

"the abduction, sexual assault and murder of a person not previously known to the offender,".

Following the death of Sarah Everard, the Labour Front Benchers tabled that amendment, which would extend the whole-life tariff to someone guilty of the murder, abduction and sexual assault of a stranger.

On the evening of 3 March, 33-year-old Sarah Everard visited a friend in south London and later began to walk across Clapham Common in the direction of home. She had her whole life ahead of her. She was young, intelligent, popular and kind, and her family described her as a "shining example" to all, who brought them nothing but pride and joy. She took precautions to keep herself safe, choosing well-lit streets and talking to her boyfriend on the phone. Tragically, that was not enough.

It is by no means an exaggeration to say that the disappearance and death of Sarah Everard sent a shockwave across the country and changed the way we think about violence against girls and women. Sarah's death reignited the national debate about the endemic culture of harassment, violence and abuse that women and girls face daily, a debate that we can all admit should have been had much earlier.

While we are limited in what we can say about the circumstances of Sarah's disappearance and murder, for many women and girls, Sarah's murder was a wake-up call.

A young woman vanished without trace while walking home alone from a friend's house—a simple routine that most women follow every week. Many women felt it could easily have been them in Sarah's shoes, snatched on Clapham Common, their only fault being a woman in the wrong place at the wrong time.

Like the premeditated murder of a child, the abduction and murder of a stranger is thankfully rare. That does not make women feel any safer, however, nor does it make the crime any less heinous. It is a shameful indictment of the type of society we are today that women feel unsafe to walk home alone at night, fearful that they could be harassed, assaulted or worse, simply because of being a woman. It is also shameful that women should consider the need to take precautionary measures—for example, putting their keys between their fingers or pretending to talk loudly on the phone to put off potential attackers—second nature. Frankly, however, who could blame them?

The statistics are as damning as they are frightening. Each week, women of all backgrounds, from all parts of the country and of all ages, are brutally murdered by violent men. In 2016, 125 women in the UK were killed by men. In 2017 and 2018, that number rose to 147. Over the past decade, 1,425 women have been murdered in the UK. That is roughly one woman every three days. Furthermore, in one year alone, more than half a million women suffered sexual assault.

In the wake of Sarah Everard's death, more than 1,000 people marched on Parliament Square with one very simple message: "Enough is enough". Women and girls across the country have had enough of being targeted by violent men, of being punch-bags, of being harassed and of being treated as second-class citizens. Labour stands by those women. I hope that Conservative Members will stand with us. As parliamentarians, it is our duty to ensure that women and girls feel safe and valued in society, and to recognise their pain and frustration.

Following Sarah Everard's tragic murder, we can send a powerful message to women and girls up and down the country by ensuring that anyone who abducts and murders a woman faces the severest punishments available. I hope we can look forward to the Minister's support for the amendment as he recognises that the harshest possible sentence should apply to offenders found guilty of—I repeat again—the murder, abduction and sexual assault of a stranger.

The Chair: Before we continue, can we be a little careful here? I have been in discussion with the Clerk and others, and I am not sure that we need to be careful, but let us be careful because there is still not a sentence yet. I am sorry—

Alex Cunningham: I was being very careful.

The Chair: I know you were. I just want everybody to be careful.

Chris Philp: The shadow Minister has given a comprehensive and thorough introduction to the topic of whole-life orders, which I had intended to give the Committee myself. As he has laid out the background, I do not propose to repeat it. He accurately described how they operate and the categories of offender to which they apply. As he said, a whole-life order is the most severe punishment that a court can hand down, ensuring that the person so sentenced never leaves prison under any circumstances.

The shadow Minister illustrated the gravity and seriousness of such sentences by listing some of the terrible cases from the past 30 or 40 years, or indeed the past 50 years, in which whole-life orders have been imposed. The clause proposes to add to the small list of offences that qualify for a whole-life order as a starting point the heinous case of premeditated child murder—a crime so awful and appalling that I think all hon. Members agree it should be added to the list.

The murder of a child is particularly appalling, and whether we are parents or not, we all feel deeply, particularly when there is a degree of premeditation—when it is not just in the moment, but planned and intended for some time—that the crime is truly terrible and enormous. That is why the Government propose to expand the whole-life order. I think there is unanimity on that point.

The shadow Minister raised the important question of violence against women and girls, both in general terms and in the context of a particular case, which Sir Charles has asked us to be careful about because it is subject to live legal proceedings. The matter is not concluded before the courts, so of course we should be a little careful. Let me start with the wider issue of violence against women and girls.

For many years, the Government have had an unshakable commitment to protecting women and girls from the completely unacceptable violence and harassment that they all too often suffer at the hands of men. My hon. Friend the Member for Louth and Horncastle, the safeguarding Minister, has been at the forefront in recent years—introducing the Domestic Abuse Bill, which reached the statute book as the Domestic Abuse Act 2021 a short time ago, and leading and taking forward our work in this area. In the relatively near future—certainly in the next few months—we will publish a refreshed violence against women and girls strategy and a domestic abuse strategy, both of which will take further our work in this area.

A great deal of work has been done in the last five or 10 years, almost always with cross-party support. For example, banning upskirting started off as a private Member's Bill and the measure was then passed by the Government. There are also recent measures on non-fatal strangulation, which are critical to protecting women, and work on the rough sex defence, which is part of the Domestic Abuse Act. We have introduced additional stalking offences over the last few years and increased sentences for such offences. A huge amount of work has been done, is being done and will be done to protect women and girls from attack. As the shadow Minister rightly said, women and girls have the right to walk the streets any time of day or night without fear. That is not the case at the moment, and we all need to make sure that changes.

In relation to the terrible crime of rape, it is worth mentioning, by way of context, that sentences have been increasing over the past few years. The average adult rape sentence rose from 79 months in 2010 to 109 months in 2020, an increase of approximately two and a half years—and quite right, too. However, it is not just the sentence that matters, but how long the offender spends in prison.

Via a statutory instrument that we introduced last year, and a clause that we will come to later in the Bill, we are ensuring that rapists spend longer in prison. Those sentenced to a standard determinate sentence of over seven years will now, for the first time, serve two thirds of their sentence in prison, not half, as was previously the case. It was wrong that rapists, when given a standard determinate sentence, served only half of it in prison. It is right that that is now two thirds, when the sentence is over seven years. The Bill goes further, moving the release back to two thirds of the sentence for those convicted of rape and given a standard determinate sentence of over four years, ensuring that rapists spend longer in prison.

I hope that gives the Committee a high level of assurance about the work that has been done already, is being done through the Bill and will be done in future in this critical area. We discussed that extensively in yesterday's Opposition day debate, which the Lord Chancellor opened and I closed. Labour's Front-Bench spokesman made the point, fairly and rightly, that rape conviction rates are too low and must get higher. The rape review, which I am told will be published in days not weeks, will propose decisive action to address that serious problem.

I hope that lays out the Government's firm commitment on the issue and our track record historically—

Alex Cunningham: It sounds as though the Minister is about to wind up without addressing my specific points.

Chris Philp: No, I certainly was not planning to ignore the hon. Gentleman's amendment. I was simply setting out the wider context and the work that the Government have done, are doing and will do.

I have a couple of things to say about the amendment. First, the offence it describes is obviously horrendous and very serious. It currently carries a mandatory sentence of life imprisonment. Where the murder involves sexual or sadistic conduct, the starting point for the tariff—the minimum term to be served in prison—is 30 years, so a very long time. It is important to note, however, that judges have the discretion to depart from that tariff where they see fit and, if necessary, increase it, including by giving a whole-life order. It is important to be clear that the law already allows for such an offence to receive a whole-life order where the judge thinks that appropriate.

Secondly, the amendment refers in particular to strangers. It would essentially move the tariff's starting point from 30 years to a whole-life order, the maximum sentence being life in both cases—it would not change the maximum sentence—but it aims that change in minimum sentence only at cases where a stranger has perpetrated the abduction, sexual assault and murder. It strikes the Government as surprising that that distinction is drawn, because the crime described—abduction, sexual assault and murder—is as egregious and horrendous whether committed by a stranger or by someone known to the victim.

3 pm

We have spoken a lot about the importance of combating domestic abuse and the appalling crimes of domestic violence. I suspect—the Minister for Safeguarding might help me here—that the offender is usually known to the victim rather than being a stranger. The Minister for Safeguarding is nodding. The majority of offenders in such cases will be known to the victim—they may even be the partner of the victim. The offences may even happen in a domestic setting—the very place where the victim is entitled to feel safest—where the perpetrator is someone whom the victim ought to be able to trust. However, those settings and offenders are excluded from the amendment, because it applies only to strangers. I submit to the Committee that those serious, terrible and horrendous offences are just as serious when committed by someone known to the victim as they are when committed by a stranger.

Obviously, I understand the spirit of the amendment, but it diminishes the seriousness of domestic murders, whereby the perpetrator is known to the victim, by omission, because they are not included. I suggest that for that reason, and because it is rightly already possible for a judge to give a whole life order in such circumstances, the amendment does not move us forward. In fact, it omits—I am sure it was by accident and not intentional—those domestic murders, abductions and sexual assaults, which are just as serious as when committed by a stranger. Although I am in complete sympathy with the shadow Minister and Front Benchers' sentiments on this issue, I ask them to think about that particular element of the amendment as drafted.

Alex Cunningham: I am grateful to the Minister for his response. It is very easy for us all to determine our own shopping list of changes to the legislation. I take his point that crime committed by somebody who is known to the victim is not any less severe than crime committed by someone who is not known to the victim. However, rather than dismiss what the Opposition are saying, perhaps the Government should say that there is an opportunity here to look at whole life orders and some of the wider aspects. Perhaps other cases should attract a whole life order. The Government have quite a tight group currently, and there is a need for that to be reviewed.

Given the specific things that have happened in recent times, the amendment is about sending a message to women and girls that we are on their side and that we recognise the difficulties that they often face. We recognise their fear of walking home in the evening, particularly if they are on their own. Although society needs to do more to tackle the causes of this type of crime, we should still go ahead with the amendment and ensure that there is a clear message to strangers, or anybody out there, that if they abduct, murder or sexually assault a woman, they will face the full weight of the law. For me, that means the mandatory whole life order, except in exceptional circumstances.

The Chair: Minister, do you wish to come back? I saw you in discussions with another Minister, so I will give you the option. It is not normal to do this, but is there anything further that you would like to add in response?

Chris Philp: I will just say that we are always happy to talk to the Opposition about a matter of this sensitivity, but I remain of the view that we should not single out murders involving a stranger and exclude domestic cases from the Bill, because that would diminish those equally appalling offences in which the victim is known to the offender. It may even be a partner; it may even have happened in her house—yet that is not in the amendment. I ask that we think again about putting it to a vote. I am

[Chris Philp]

happy to sit down with the shadow Minister to talk about the issue and about the whole life order question, but I repeat the point that I made earlier.

Alex Cunningham: I appreciate that, but I still intend to divide the Committee on the amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 6.

Division No. 16]

AYES

Charalambous, Bambos	Eagle, Maria
Cunningham, Alex	

NOES

Atkins, Victoria	Higginbotham, Antony
Clarkson, Chris	Philp, Chris
Goodwill, rh Mr Robert	Pursglove, Tom

Question accordingly negatived.

Clause 101 ordered to stand part of the Bill.

Clause 102

WHOLE LIFE ORDERS FOR YOUNG ADULT OFFENDERS IN EXCEPTIONAL CASES

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

Chris Philp: Clause 102 relates to whole life orders, which we discussed fairly extensively a few moments ago. It will give judges the opportunity, in rare and exceptional cases, to use a whole life order on people who are convicted when they are aged between 18 and 20. At the moment, whole life orders can be imposed only on offenders aged 21 or over, but occasionally there are some very unusual cases in which offenders aged 18, 19 or 20 commit heinous offences and a whole life order might be appropriate. For example, an offence of murder, rape and abduction such as the shadow Minister described might be committed by someone aged 20. We think, as I hope the Opposition do, that the judge should be free to impose a whole life order; in fact, the shadow Minister himself made that case very compellingly a short while ago.

I will give an example in which a judge called for precisely that: the notorious, infamous case of Hashem Abedi, the brother of the Manchester Arena bomber. In sentencing him, the presiding judge, Mr Justice Baker, described the actions of the two bombers as

"atrocious crimes: large in their scale, deadly in their intent and appalling in their consequences."

The judge said that he was satisfied that they had appeared to deliberately target the young audience in attendance at the arena's Ariana Grande concert in order to heighten the risk of injury and death. He said in his sentencing remarks that

"If the defendant…had been aged 21 or over"

and if a whole life order had been available,

"the appropriate starting point…would have been a whole life order",

given the seriousness of the crime.

I am sure that every member of the Committee, and indeed every Member of the House, will agree that for crimes as abhorrent as Hashem Abedi's—murdering so many people in cold blood, many of them young—or in cases of the kind that the shadow Minister spoke about in our debate on clause 101, involving the murder, rape and abduction of a woman, where the offender is 19 or 20 years old, the whole life order should be available to the judge in those exceptional and thankfully rare circumstances.

I think that this extension to the whole life order regime is appropriate. On that basis, I urge that clause 102 stand part of the Bill.

Alex Cunningham: I am getting a little confused now with some of the things that the Minister has said in relation to the last debate and the imposition of whole life orders. I assume that he was referring to the fact that judges have that flexibility rather than being compelled to impose such a sentence.

Chris Philp: The shadow Minister is right. I was saying that, for the kind of offences that he described in the last debate, judges have the ability to impose a whole life order. For murders involving sexual assault and abduction, the starting point currently is a tariff of 30 years. However, the judge has the freedom to go up to a whole life order. But at the moment, the judge cannot do that if the offender is aged 18, 19 or 20. The clause will give judges that freedom.

Alex Cunningham: I am grateful to the Minister for his clarification. As he said, clause 102 will allow judges to impose, in exceptional circumstances, a whole life order on offenders who were aged 18 to 20 when the offence was committed. Currently, a whole life order can be imposed only on offenders who were aged 21 or over when they committed the offence; we both recognise that. The court will be able to impose a whole life order

"only if it considers that the seriousness of the offence, or combination of offences, is exceptionally high even by the standard of offences"

that would normally attract a whole life order for an offender aged 21 or over.

I start by paying tribute to those who lost their lives on 22 May 2017 at the Manchester Arena. That evening was supposed to be one of fun. Instead, a truly wicked act claimed 22 innocent young lives and left many more lives shattered. As the Minister said, it is only right that Hashem Abedi received the longest sentence in history for his part in the atrocity that night. It is also right that he will spend the rest of his life in jail. Neither of those points has ever been in doubt.

Labour's overarching commitment is to keeping the British public safe and to ensuring that horrific terrorist attacks such as the one at Manchester Arena cannot be repeated. For that reason, Labour will support the introduction of clause 102. We do, however, seek assurances that the Government will think carefully about their approach to young adults when making sentencing changes in the future.

As the Minister explained, since 2003 the law has provided that whole life orders can be handed down only to offenders who were aged 21 or over at the time of their offence. Clause 102 will make an exception to that rule, so that in exceptional circumstances whole life orders can be given to those who were aged 18 or over but under 21 at the time they committed their offence.

In its briefing on the Bill, the Sentencing Academy indicated that the inclusion of clause 102 seemed to be a response triggered by the trial of Hashem Abedi for his involvement in the Manchester Arena bombing. As many people will know, Hashem Abedi was the brother of Salman Ramadan Abedi and was found guilty of assisting his brother to order, stockpile and transport the deadly materials needed for the attack. In total, he was found guilty of 22 counts of murder, attempted murder and conspiring to cause explosions.

In his sentencing remarks, Mr Justice Jeremy Baker indicated that Hashem Abedi's actions were so grave that if he had been aged 21 or over, he would have sentenced him to a whole life order. Given that Hashem was under the age of 21 at the time of his offences, the judge was precluded from sentencing him to a whole life order. Instead, he was sentenced to at least 55 years—the longest determinate sentence in British criminal history. Mr Justice Baker made it clear that Abedi would leave prison only if the Parole Board was convinced that he was no longer a risk to society. Even then, he would spend the remainder of his life on licence, with the risk of being recalled to prison. In all likelihood, he concluded, Abedi could expect to spend the rest of his life in prison.

This, to a certain extent, represents the first concern that the Opposition have about clause 102. If the current sentencing regime already allows courts to sentence someone to almost certainly spend the rest of their natural life behind bars, what does clause 102 actually add to the law? As Mr Justice Baker pointed out, the only way Hashem Abedi could conceivably be released from prison is if the Parole Board deemed him no longer to be a risk to society. I am sure that the Minister will agree that after committing such a heinous and fanatical crime, and while refusing to show any remorse for his actions, the chances of his being deemed safe to be released are close to zero. Moreover, given that he will be at least 78 years old before his minimum sentence comes to an end, the chances that he will die before appearing before the Parole Board are considerable.

The other reason why we have concerns in this area was neatly summed up by the Sentencing Academy, which pointed out that, since the current sentencing regime for murder came into force in 2003, the issue of a sentencing judge being prohibited from imposing a whole life order on someone aged 18 to 20 arose for the first time only in 2020. For the avoidance of any doubt, the event referred to in 2020 is that trial of Hashem Abedi.

3.15 pm

I stress that point because the impact of clause 102 will be profound. Since the sentencing regime for whole life orders came into force in 2003, there has always been a safeguard that whole life orders should be applicable only to those who committed their offence aged 21 or older. Clause 102 seeks to weaken that safeguard, despite no evidence being shown since its imposition almost two decades ago that that is what judges are asking for. I ask the Minister to publish the evidence demonstrating that judges want this new sentencing provision, which will rarely, if ever, be used. Is there really a necessity for this change, which affects young adults?

This brings us to the root of the Opposition's second concern about clause 102. While there is no question that Hashem Abedi deserves a whole life order for his atrocity, we must not let this one case blind us to the importance of understanding the age of maturity in other cases. The Minister will recollect our long discussions on this subject during the Counter-Terrorism and Sentencing Bill Committee. The same arguments apply to this Bill, and I cannot stress enough the need for the Government to consider maturity issues now too. During the past 20 years, there have been significant advances relating to the age of maturity, with scientific evidence now indicating that young adults are still developing their decision-making and impulse control skills well into their mid-20s.

The Prison Reform Trust states in its briefing notes that clause 102 will

"fly in the face of evidence on maturity which the government has previously accepted and promised to take into account in its policy concerning young adults in the criminal justice system. That evidence, supported by neurological studies, establishes that the development of maturity extends well beyond adolescence, and typically into a person's mid-twenties…There has been no change in that evidence, nor, so far as we know, in the government's wish to have regard to it."

We must listen carefully to that criticism. The Prison Reform Trust is referring to the Government's 2015 response to Lord Harris's report into the deaths of 18 to 24-year-olds in custody, where the Government agreed that:

"It is widely recognised that young adults, particularly males, are still maturing until around 25 years of age."

It is not only the Government who agree on that point; the Justice Committee also agrees that young adults are still maturing until the age of 25. As the Minister will know, how the criminal justice system responds to young adults has been subject to two separate inquiries by the Justice Committee, one of which reported as far back as October 2016, and one of which reported in June 2018. The Committee report of 2016, published almost 5 years ago, recommended that:

"Both age and maturity should be taken into significantly greater account within the criminal justice system",

and that

"the system…should presume that up to the age of 25 young adults are typically still maturing."

The Committee went on to say there was

"overwhelming evidence that the criminal justice system does not adequately address the distinct needs of young adults"

and attacked the Government for a lack of action, adding that more victims will suffer crime unless the regime for dealing with young adult criminals is overhauled.

My questions to the Minister are quite simple. We accept that the most serious under-21 offenders, such as Hashem Abedi, deserve whole life orders. However, can the Government reassure the Committee that they still accept that young adults are still maturing until the age of 25, and that the justice system should take that properly into account when considering whole life orders for young adults? What safeguards will be put in place to ensure that such sentences are issued only in the most extreme cases, perhaps by seeking guidance from the Sentencing Council? Finally, will the Minister commit to report to Parliament each year on the application of this new sentence? As indicated earlier, we do not intend to stand in the way of this clause, but the Government need to move cautiously to ensure that they do not needlessly condemn people as young as 18 to death in prison. I look forward to the Minister's response.

Chris Philp: I will be brief in my reply. On the need for the sentence, we have already discussed the Abedi case. We have seen that, in his case, it is conceivable that the whole-life order might have made a difference. He would be eligible for Parole Board consideration at the age of 78. In that circumstance, a whole-life order would make a difference because, under one, such a consideration would not take place.

The shadow Minister said that such cases are very rare because, by definition, people who are 18, 19 or 20 have many years of life ahead of them. None the less, they occasionally occur, and it is important that we give judges the ability to deal with that. The fact that we have whole-life orders illustrates that there are limited circumstances in which they are appropriate.

I thought that there was a slight inconsistency in the shadow Minister's arguments. On the previous clause, he argued for the expansion of whole-life orders, and on this clause—I know he will support it, so I do not want to push this too hard—he raised doubts about the appropriateness of the expansion of whole-life orders. It struck me that there was a slight tension in those arguments.

Alex Cunningham: The Minister must not misunderstand or misinterpret what I was saying. We are fully supportive of what he is trying to achieve here, but we want to make sure the Government recognise that such orders should be used only in the most extreme cases, and maturity has to be an issue.

Chris Philp: We do recognise that. The orders are intended to be used in exceptional circumstances. The phrase "exceptional circumstances" is well established and well known by judges and in law.

On the shadow Minister's point about accounting for maturity more generally, of course judges take it into account at the point of sentencing. At about this time last year, during the passage of the Counter-Terrorism and Sentencing Act 2021, we discussed extensively the use of pre-sentence reports when someone who is just over the age of maturity but still maturing is sentenced. The fact is that pre-sentence reports can comment on maturity, and judges can take that into account.

I can give the shadow Minister the assurance he asked for. First, the Government are mindful of the issue generally, and, secondly, we expect this to be rare and exceptional. I have a great deal of confidence that the judiciary will apply the flexibility that we are providing in a way that reflects that. As the shadow Minister said, I would not expect the power to be used in very many circumstances, but where terrible cases arise, such as the appalling Abedi case, or a case in which a 19 or 20-year-old abducts, rapes and murders a woman, the whole-life order might be appropriate. It is right that judges have them available to use. I am glad to have the shadow Minister's support on this clause.

Question put and agreed to.

Clause 102 accordingly ordered to stand part of the Bill.

Clause 103

Starting points for murder committed when under 18

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

Chris Philp: We come now to the sentencing regime for children who commit murder. Thankfully, that is a very rare occurrence, but it does sadly happen. Clause 103 amends the sentencing code to replace the current 12-year tariff point for all children who commit murder, with a sliding scale of starting points. The sliding scale takes into account the age of the child and the seriousness of the offence. It means that the older the child and the more serious the murder, the higher the starting point.

Detention at Her Majesty's pleasure is the mandatory life sentence for children who commit murder. Starting points are used by the judge to determine the minimum amount of time to be served in custody before the offender can be considered for release by the Parole Board. Judges can set a minimum term that is higher or lower than the starting point by taking into account aggravating or mitigating factors. Rather than having a flat 12-year starting point, as we have at the moment, which does not account for the age of the child—it could be 12 or 17—or the relative seriousness of the offence, instead we will have a sliding scale based on a more nuanced system.

The new starting points represent the approximate percentages of the equivalent sentence for an adult, which of course reflects the seriousness of the particular offence. If the child who has been convicted of murder is aged between 10 and 14, the tariff—the minimum amount to be served—will be set at half the adult equivalent. If they are 15 or 16 years old, it will be set at 66%, and if they are 17 years old—almost an adult but not quite—it will be set at 90%.

The introduction of this sliding scale recognises that children go through different stages of development and that a child of 17 is manifestly different from a child of 10. It seeks to reduce the gap in starting points between someone who is 17 versus someone who is 18, say, but increase it when the person is a lot younger. By linking it to the equivalent sentence for the same offence committed by an adult, it also seeks to reflect the different levels of seriousness that might apply.

This is a sensible and proportionate measure that reflects both age and seriousness. That is not currently reflected in the starting point, and we have to rely wholly on judicial discretion to correct that. This measure makes the provision a little more predictable and transparent, so that everyone can see how the system works.

Alex Cunningham: On 3 May 2019, Ellie Gould was murdered by her former boyfriend in the kitchen of her family home. She was strangled, and stabbed 13 times, in a brutal and frenzied attack. She was only 17 years old and was looking forward to university. Her whole life should have been ahead of her, but it was snatched away in the most horrendous way imaginable.

When Ellie's former boyfriend was sentenced for his appalling crime, he received only 12 and a half years in prison, meaning he could be eligible for parole before his 30th birthday. If he had committed his crime a year later, after he had turned 18, he could have received a much longer sentence. As a dad and a grandad, I can only imagine the enormous life-changing pain of having a child taken away in such appalling circumstances, while knowing that the perpetrator will be released within a relatively short period.

On behalf of the Opposition and, I am sure, of the whole Committee, I praise the enormous fortitude and dignity that Carole Gould has shown amid such horrendous loss.

It is thanks to her tireless campaigning for Ellie's law that we are discussing the clause. As my right hon. Friend the Member for Tottenham made clear in the Chamber some time ago, there is no doubt that Thomas Griffiths received too short a sentence for the crime he committed, and Labour stands firmly behind the Gould family.

As the Minister pointed out, under the current sentencing framework, if a child commits murder before they turn 18, they are sentenced to detention at Her Majesty's pleasure, with a starting point of 12 years, as opposed to the starting point of life imprisonment for an adult found guilty of the same offence. As such, the way that starting points are currently calculated means that a 17-year-old who, like Thomas Griffiths, commits murder, can receive a much shorter tariff than someone who has just turned 18, even if the crime is more serious.

Clause 103 would rectify that by replacing the 12-year starting point with a sliding scale of different starting points based on the age of the child, as the Minister outlined. The aim is to ensure that sentences given to children who commit murder are closely aligned to the sentences handed down to adults who commit the same offence.

As I set out at some length during the debate on clause 102, the Opposition are naturally cautious when it comes to the age of maturity and increasing the sentencing regime that applies to children. As I have said, that concern is held not only by the Opposition, but by the Justice Committee, which set out unequivocally that:

"Both age and maturity should be taken into significantly greater account within the criminal justice system."

None the less, as I have said in the past, the Opposition are also pragmatic and recognise that on some occasions, such as the death of Ellie Gould, the sentences that are currently available do not properly reflect the severity of the offence committed.

As Carole Gould has described so movingly, the families of victims of these atrocious crimes often feel that they have faced two gross injustices: first, when the act is carried out, and secondly, when the sentence is delivered. Labour agrees with the Government that in the darkest days of grief, it is deeply unfair that the families of victims feel that they have been cheated of justice when a perpetrator receives a far shorter sentence because of an age difference of a matter of weeks or months.

That is why we, along with the Gould family, were quite appalled when the sentencing White Paper was published with proposals that would have seen Thomas Griffiths receive an even lighter sentence of only 10 years. I am glad that the Government have now seen sense and corrected that point, but not before Labour brought the anomaly to the Government's attention back in October last year. Labour will support the Government on clause 103 today, but we feel that much more could be done in this area.

As Carole Gould has pointed out, clause 103 deals with the issue of older children being sentenced in a way that is closer to young adults. Another important issue, however, remains to be resolved: the sentencing gap which exists between those who murder within the domestic home and those who murder a stranger in the street. The point made by Carole is a poignant one:

"Why should a life taken in the home by someone you know be valued less than a life taken by a stranger in the streets?"

3.30 pm

For example, even under the proposals set out in the Bill, a child aged 10 to 14 who commits murder and does so after taking a weapon to the scene—such as a public place—would be liable to a minimum of 13 years' imprisonment. On the other hand, if a child of the same age committed murder and used a weapon found at the scene—as in the case of Thomas Griffiths, who used a kitchen knife to carry out his terrible crime—the minimum sentence would be eight years. That is a huge difference of five years.

Joe Atkinson was 25 when he murdered his 24-year-old ex-girlfriend in a jealous rage, causing her more than 100 injuries, including 49 knife injuries and 23 separate stab wounds all over her body. For those who take a knife or weapon to the scene, such as those who stab someone to death on the street, the normal starting point for sentencing is 25 years. Joe Atkinson, however, was sentenced to just 16 years and two months. That was, in part, because the murder was committed using a weapon found in the victim's home.

We of course understand the concept of premeditation, which has been a key part of the law since time immemorial, but we must ask ourselves as parliamentarians whether that sentencing gap is right or proportionate. That is why the Opposition tabled new clause 24, which would require the Government to commission an independent review into the effectiveness of current legislation and sentencing policy on domestic homicide. In particular, such a review would consider:

"trends in the incidences and types of domestic abuse, with a focus on domestic homicide,…sentencing policy as it applies to domestic abuse, with a focus on domestic homicide,…current sentencing guidelines as they relate to domestic abuse, with a focus on domestic homicide, and…the creation of new defences and/or mitigating circumstances to protect victims of domestic abuse who commit offences as a consequence of that abuse."

We will have the opportunity to debate new clause 24 in detail in the weeks to come, but I hope that the Minister will accept today that, although clause 103 is welcome, it does not represent a quick fix to the endemic levels of domestic homicide that we see today. Time and time again, we hear the most tragic stories, often of violent men who murder their partners in their own homes and receive a lesser sentence either as a result of not taking a weapon to the scene, or by claiming diminished responsibly.

I hope that the Minister will agree that those are serious issues that deserve serious scrutiny. With that in mind and in the spirit of cross-party co-operation, as we support the clause, I hope that next week or perhaps the week after the Minister will support our new clause 24.

Question put and agreed to.

Clause 103 accordingly ordered to stand part of the Bill.

Clause 104

Sentences of detention during Her Majesty's pleasure: review of minimum term

Alex Cunningham: I beg to move amendment 131, in clause 104, page 89, line 1, leave out "18" and insert "26".

This amendment would make provision for minimum term reviews for those who are serving a sentence of detention at Her Majesty's pleasure to continue to take place up to the age of 26.

[Alex Cunningham]

As has been pointed out, the purpose of the clause is to alter the way in which sentence reviews are conducted for those serving detention at Her Majesty's pleasure. As the law stands, a child sentenced to detention at Her Majesty's pleasure may apply to the High Court to seek a review of their sentence once they have reached the halfway point of the sentence. The purpose of the review is to establish whether the offender has made sufficient progress while in prison for their sentence to be reconsidered. If the offender's application for a review is unsuccessful, he or she may make a further application every two years until the sentence comes to an end.

The effect of the clause is twofold: first, those who have reached the age of 18 at the time of sentencing will no longer be entitled to a review of their sentence. Secondly, those who are entitled to reviews—in other words, those who were sentenced when a child—will be restricted to a single review at the halfway point and, if they have reached the age of 18 by that stage, they will be entitled to no further reviews.

In their White Paper, the Government set out that the intention behind clause 104 was to spare victims' families the trauma of having to continually revisit the events that led to the loss of their loved one each time an offender applies for a review. Although we sympathise wholeheartedly with that sentiment, we are also mindful of the need to balance it with the right of young offenders to have their sentence reviewed in the light of good behaviour while in prison.

The Opposition's first major concern with clause 104 is that we believe that those who commit an offence as a child should be treated as a child by the criminal justice system, irrespective of whether they turn 18 by the time they are sentenced. That view is widely held by stakeholders across the justice sector, as well as by Members across the House. As the Minister will be aware, the hon. Member for Aylesbury (Rob Butler) has promoted a ten-minute rule Bill to achieve just that.

The Labour party is clear that no child should be put at a disadvantage by turning 18 before being sentenced, especially if the delay has been caused by the record-breaking court backlog. That concern is shared by the Sentencing Academy, which notes:

"We have grave concerns about the removal of reviews from people simply because they have reached the age of 18 at the time of sentencing—particularly at a time when cases are taking so long to reach court due to the backlog of cases that has been exacerbated by the pandemic."

Bambos Charalambous: Obviously, delays are not particularly satisfactory for anybody, particularly in the criminal justice system. Long delays are not fair for victims, either, or for young people. As the maxim says, justice delayed is justice denied. Does my hon. Friend agree that the criminal justice system needs more investment so that things are speeded up and young people do not end up being sentenced as adults?

Alex Cunningham: I understand exactly what my hon. Friend is saying. However, I know from discussions with the Lord Chancellor that he is very shy about addressing the issue of people receiving an adult sentence for crimes committed under the age of 18 because their case did not get to court until after they had turned 18. He does not appear to have any sympathy for that. I hope that over time we can work with the Government on what happens to children who commit crimes. They should not be disadvantaged by not having their case heard until they become an adult.

The concept of basing minimum term reviews on age at sentencing, rather than on age at the time the crime was committed, has also been rejected by the courts as contrary to the purpose and rationale of the sentence of detention at Her Majesty's pleasure. As the great Lord Bingham set out in the case of Smith:

"The requirement to impose a sentence of HMP detention is based not on the age of the offender when sentenced but on the age of the offender when the murder was committed, and it reflects the humane principle that an offender deemed by statute to be not fully mature when committing his crime should not be punished as if he were. As he grows into maturity a more reliable judgment may be made, perhaps of what punishment he deserves and certainly of what period of detention will best promote his rehabilitation."

With that in mind, what guarantees can the Minister provide that no child will be put at a disadvantage because of court delays caused by the huge backlog that has accrued on the Conservative Government's watch? Similarly, does he agree that it would be hugely unfair for children to be worse off because of something completely out of their control?

The Opposition's second concern with clause 104 is the cliff edge created by the offender turning 18. As I set out at some length during our discussion of clause 102, the Opposition are very mindful of the significant advances made during the past 20 years relating to the age of maturity. As the Minister is all too aware, it is now widely recognised that young adults are still developing their decision making and impulse control skills well into their mid-20s. As I have said before, that is acknowledged not just by the Opposition but by the Justice Committee, neuroscientists, criminologists and, until recently, this very Government. It is somewhat disappointing, then, that the Government have chosen to create a cliff edge whereby anyone who turns 18 suddenly loses the right to have the High Court review their sentence.

That concern is shared by the Sentencing Academy, which points out:

"The accompanying 'factsheet' justifies removing reviews from those aged 18 by the time of sentencing on the grounds that: 'This is because their age and maturity will have been taken into account at their sentencing'. However, it is an accepted feature of sentencing law that the passing of an offender's 18th birthday is not a cliff edge in terms of their emotional and developmental maturity."

I must therefore ask the Minister why, when the Government have previously accepted that

"the system…should presume that up to the age of 25 young adults are typically still maturing",

they have chosen to create this cliff edge at the age of 18. Not only does this seem unfair; it also seems counterproductive. By removing an offender's right to a review of their sentence based on good behaviour, the Government are also removing any incentive for that offender to behave well in prison. As the Howard League points out, minimum term reviews are infrequent but important, as they

"offer a rare source of hope and can powerfully motivate young people to make and maintain positive change."

The Sentencing Academy points out that since 2010 fewer than 10% of offenders serving detention at Her Majesty's pleasure applied for a second review of their sentence. It says of the proposed change:

"this restriction will merely remove the opportunity of review from a small handful of cases in which exceptional progress has been achieved after the halfway point in the sentence".

Is the Minister not worried that by removing the right to these reviews, he could be putting overworked prison staff at increased risk of harm?

Although we sympathise with the stated goal that the Government are seeking to achieve through clause 104—to prevent unnecessary distress to the families of victims of crime—in its present form we are unable to support it. Instead, we have tabled amendment 131, which we believe balances the need to protect the families of victims of crime from distress with preserving the rehabilitative benefits of being able to request a sentence review. The mechanics of the amendment are simple. Instead of ending the right to a sentence review at the age of 18, the amendment would make provision for minimum term reviews up to the age of 26, reflecting the widely held view that young adults are still developing in maturity well into their twenties, while also providing a powerful incentive to motivate young offenders to reform and rehabilitate while in custody.

I look forward to hearing the Minister's response.

Chris Philp: Once again, the shadow Minister has helpfully laid out the context and the background to the clause. I will not irritate or detain the Committee—or perhaps both—by repeating the information that he has given.

These reviews provide an opportunity to look again at the minimum term handed down, but it is important to remember that we are talking about a cohort of people who have committed a very serious offence: murder. As the shadow Minister said, when sentence is first passed on a child, the judge passing the sentence will include in their consideration the maturity of the person at that point. There is an acceptance that further maturing may occur subsequently, which is why the review mechanism exists. Even with the reform proposed in clause 104 there can still be a single review once the individual is over 18; it is only subsequent reviews—a second, third or fourth review—that the clause would preclude. Given the likely length of sentences or of minimum terms, as well as the fact that most people receiving a first sentence will probably be in their mid or late teens, it is very likely that in almost all cases there will be one review after the age of 18. We are simply precluding those further reviews.

The shadow Minister says the clause might affect incentives. Once the minimum term has been reached, whether it has been reduced or not reduced, the Parole Board still has to consider whether release is appropriate, so even if the minimum term is not reduced, there is still an incentive to behave in prison and to engage in rehabilitation and so on, in the hope of getting the Parole Board release once the minimum term has been reached. So I do not accept the argument that the clause changes the incentives to behave well in prison.

On the point about people maturing beyond the age of 18, for first sentences, that is reflected in the sentence passed by the judge, informed by pre-sentencing reports. As I have said previously, the law as we propose to amend it will still allow—most likely in almost every case, or very many cases—a single review after the age of 18. That is analogous to the judge, when sentencing someone for the first time at the age of 20, 21 or 22, or even slightly older, taking into account maturity at the point of sentencing.

3.45 pm

What we do not want is people having multiple bites of the cherry. We do not get that in ordinary sentencing: when someone who is 21 is sentenced, they get sentenced once at the age they happen to be, taking into account their maturity at that point—just over the age of 18. The clause effectively allows for a similar principle to take effect: most likely a single review, probably after the age of 18. It is quite unlikely that somebody would qualify for a first review under the age of 18, given how long most of these minimum terms are likely to be. It is conceivable that somebody might have a minimum term review under the age of 18 and not be eligible for another one subsequently, but my estimation is that that would only apply in a small minority of cases. As such, I think that single review after the age of 18, which is the most likely scenario, is appropriate.

To use the shadow Minister's example, having four or five reviews between the ages of 18 and 26 is excessive. It does not strike the right balance between taking into account the process of maturation and the distress that may be caused to the victim—or rather the victim's family, since we are talking about murder—by repeated reconsiderations every two years once the offender is over 18. Respectfully, I think that the clause as written strikes that right balance.

Alex Cunningham: I am sorry, but I do not accept the Minister's argument. He himself talked about the small number of applications under the existing system, but he is choosing to remove that opportunity for all, with the exception of the one opportunity. I refer him again to the quote from the Sentencing Academy:

"We have grave concerns about the removal of reviews from people simply because they have reached the age of 18 at the time of sentencing—particularly at a time when cases are taking so long to reach court".

The very fact that young people can be denied further reviews because they have reached the age of 18, and their case has not reached court through no fault of their own, is deeply unfair. For that reason, I will push the amendment to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 5.

Division No. 17]

AYES

Charalambous, Bambos	Cunningham, Alex

NOES

Atkins, Victoria	Philp, Chris
Clarkson, Chris	
Goodwill, rh Mr Robert	Pursglove, Tom

Question accordingly negatived.

Clause 104 ordered to stand part of the Bill.

Clause 105

LIFE SENTENCE NOT FIXED BY LAW: MINIMUM TERM

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

Chris Philp: The clause will increase the amount of time that an offender sentenced to a discretionary life sentence will be required to serve in custody before they can be considered for release. A discretionary life sentence can be imposed for any offence that has a maximum period of life where the court believes that the high seriousness of the offending is such that a life sentence should be imposed, rather than a lesser determinate sentence. Such offences include manslaughter, rape, and grievous bodily harm with intent.

When imposing such a sentence, the court must set a minimum term, or tariff, that must be served in full in custody before the prisoner can be considered for release by the Parole Board. At present, when setting a discretionary life tariff, the sentencing judge will identify a notional determinate sentence that reflects the seriousness of the offence as well as time spent in custody on remand and the early release provisions that apply to that notional determinate sentence in order to calculate the tariff. In practice, the standard approach applied by the court is to decide what the notional determinate sentence would be for the offence committed and then calculate the tariff based on half that notional determinate sentence, reflecting the release provision requiring automatic release at the halfway point for prisoners sentenced to a standard determinate sentence.

That is no longer fit for purpose, because the Government have legislated to remove automatic halfway release for serious sexual and violent offenders serving a standard determinate sentence of seven years or more. In fact the next clause, 106, will extend that principle further to many standard determinate sentences of four years or more. That means—anomalously—that the most serious offenders given a standard determinate sentence will serve longer in prison and be released only after serving two thirds of their sentence, but the people I have just described with a discretionary life sentence will not. The Government's proposal will align the automatic release point for serious offenders serving standard determinate sentences with the earliest possible point at which the Parole Board may direct release for those serving sentences of particular concern or extended determinate sentences, namely two thirds of the custodial term of such sentences.

For the most serious terrorist offences, through the Counter-Terrorism and Sentencing Act 2021 we brought in new provisions meaning that offenders must serve their custodial term in full. The clause will ensure that the approach to release for those serving determinate sentences for serious offences is reflected in the way in which minimum terms for those serving discretionary life sentences are calculated. They will be brought into alignment, avoiding any anomalies. Judges will, of course, retain discretion to depart from the starting point as they consider appropriate in the cases before them.

The clause will bring discretionary life sentences into line with the broader approach for dangerous offenders, so that the most serious offenders will serve longer in prison before they become eligible to be considered for release by the Parole Board, thereby ensuring that the punishment better reflects the severity of the crime. In effect, it introduces consistency between the discretionary life sentences release provisions and those we introduced in the Counter-Terrorism and Sentencing Act this year, which we are expanding in the Bill. It is a measure that brings consistency and keeps serious offenders in prison for longer. I therefore hope that the Committee will agree to the clause standing part of the Bill.

Alex Cunningham: As the Minister said, the clause will change the way in which the minimum terms of discretionary life sentences are calculated. As the law currently stands, and has stood for quite some time, discretionary life sentences are calculated at one half of what the equivalent determinate sentence would be. The clause enacts a proposal in the sentencing White Paper to change the way in which life sentences are calculated, so that they are based on two thirds of the equivalent determinate sentence rather than one half.

The Government's rationale is set out in the explanatory notes accompanying the Bill, which say:

"This change is necessary because most serious violent and sexual offenders who receive determinate sentences—including those who may receive an extended determinate sentence—are required to serve two-thirds of their custodial term before they may be released."

That refers, of course, to other recent changes to release arrangements that mean that certain categories of offender must now serve two thirds of their sentence, rather than half, before they can be released.

Like the previous sentencing changes, the clause will make an already complicated sentencing regime even more complex by changing the way in which sentences have long been calculated. It is somewhat ironic that the Government on the one hand claim to want to make sentencing simpler, and on the other hand make a series of reforms that do the exact opposite. I will develop that point in more detail when we come to clause 106, but let me give a broad overview of what I mean.

In advance of the publication of the sentencing White Paper in September 2020, the Lord Chancellor set out in a column for *The Times*—sorry, for the *The Sun on Sunday*, which is quite a different paper—that

"Sentences are too complicated and often confusing to the public—the very people they are supposed to protect."

The Lord Chancellor returns to this point in his foreword to the White Paper, stating that

"The system we have today can be complex and is too often ineffectual. Victims and the public often find it difficult to understand, and have little faith that sentences are imposed with their safety sufficiently in mind. The courts can find it cumbersome and difficult to navigate, with judges' hands too often tied in passing sentences that seem to make little sense. The new Sentencing Code is a good start in tidying up the system, however we must be mindful not just of how sentences are handed down, but also how they are put into effect."

The Opposition agree wholeheartedly with the Lord Chancellor's sentiment, which is why we welcome the new sentencing code with open arms and why we are a bit puzzled by some of the measures in the Bill.

I am not from a legal background, so perhaps I am missing something here. Can the Minister explain in simple terms how the myriad changes to release arrangements for certain offences will make sentencing simpler, rather than more complicated? If the Government's objective is to keep dangerous offenders in prison for longer, why do they not simply legislate for longer custodial sentences, rather than moving the date at which prisoners are either automatically released or

released by the Parole Board? Not only would it be a simpler approach, but it would ensure that offenders still serve 50% of their sentence in the community, which we know will significantly reduce their risk of reoffending. Again, this a point that I will draw on further when discussing the next clause.

The other concern we have about clause 105 is that it fails to recognise the fundamental difference between discretionary life sentences and determinate sentences. As the Howard League sets out in its briefing:

"In contrast with the determinate serious sentences, a person serving a discretionary life sentence will be liable to detention until the day he or she dies and there is no automatic release date. The blanket increase in the punitive period therefore cannot be grounded in protecting the public as that is covered by the jurisdiction of the Parole Board: it is simply a hike in the punitiveness and there is no evidence to justify this in terms of reducing long-term harm or increasing public safety."

In other words, the Government cannot rely on the rationale that clause 105 and the extension in the way discretionary life sentences are calculated is for the purposes of public protection.

When discretionary life sentences are handed down, the offender knows that he or she will be released from prison only if the Parole Board considers it safe to do so. This is a decision made by the Parole Board, regardless of whether it is taken at the halfway point or two-thirds point of a sentence. Instead, we are inclined to agree with the Sentencing Academy, which suggests the clause is all about

"solving a problem of the Government's own making"

as a result of previous changes to the point of automatic early release.

To wrap up, the Opposition are concerned that the clause will make an already overcomplicated sentencing regime even more complicated, contrary to the Government's desire for simpler system. It will also have no impact at all on the decisions made by the Parole Board, which remains the ultimate decision maker as to when somebody on a discretionary life sentence is safe to be released. For those reasons, we cannot support the clause.

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

The Committee divided: Ayes 5, Noes 2.

Division No. 18]

AYES

Atkins, Victoria	Philp, Chris
Clarkson, Chris	
Goodwill, rh Mr Robert	Pursglove, Tom

NOES

Charalambous, Bambos	Cunningham, Alex

Question accordingly agreed to.

Clause 105 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Tom Pursglove.)*

3.59 pm

Adjourned till Tuesday 15 June at twenty-five minutes past Nine o'clock.

Written evidence to be reported to the House

PCSCB34 Suzy Lamplugh Trust

PCSCB35 Helen Stephenson CBE, Chief Executive Officer, Charity Commission for England and Wales

PCSCB36 Youth Justice Board for England and Wales