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Public Bill Committee

CRIMINAL JUSTICE BILL

Eleventh Sitting

Tuesday 23 January 2024

(Morning)

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Saturday 27 January 2024

The Committee consisted of the following Members:

Chairs: Hannah Bardell, Sir Graham Brady, Dame Angela Eagle, Mrs Pauline Latham, † Sir Robert Syms

Costa, Alberto *(South Leicestershire)* (Con)
† Cunningham, Alex *(Stockton North)* (Lab)
† Dowd, Peter *(Bootle)* (Lab)
† Drummond, Mrs Flick *(Meon Valley)* (Con)
† Farris, Laura *(Parliamentary Under-Secretary of State for the Home Department)*
† Firth, Anna *(Southend West)* (Con)
Fletcher, Colleen *(Coventry North East)* (Lab)
† Ford, Vicky *(Chelmsford)* (Con)
† Garnier, Mark *(Wyre Forest)* (Con)
† Harris, Carolyn *(Swansea East)* (Lab)
† Jones, Andrew *(Harrogate and Knaresborough)* (Con)
† Mann, Scott *(Lord Commissioner of His Majesty's Treasury)*
† Metcalfe, Stephen *(South Basildon and East Thurrock)* (Con)
† Norris, Alex *(Nottingham North)* (Lab/Co-op)
† Phillips, Jess *(Birmingham, Yardley)* (Lab)
† Philp, Chris *(Minister for Crime, Policing and Fire)*
Stephens, Chris *(Glasgow South West)* (SNP)

Simon Armitage, *Committee Clerk*

† attended the Committee

Public Bill Committee

Tuesday 23 January 2024

(Morning)

[Sir Robert Syms *in the Chair*]

Criminal Justice Bill

9.43 am

The Chair: Before we begin, I have a few preliminary announcements. Members should send their speaking notes to hansardnotes@parliament.uk. Please switch electronic devices to silent. Tea and coffee are not allowed during sittings.

The Minister for Crime, Policing and Fire (Chris Philp): On a point of order, Sir Robert. I am sorry to interrupt the proceedings, but I had a discussion with the Opposition Front Benchers, and we wondered whether—with your consent—we might start this afternoon's session at 3 o'clock rather than 2 o'clock. I have consulted the Clerk but, of course, wanted to get your consent first.

The Chair: Okay. Is the shadow Minister content?

Alex Norris (Nottingham North) (Lab/Co-op) *indicated assent.*

Ordered,

That the Order of the Committee of 12 December 2023 be amended in paragraph 1(f) of the Order, by substituting "3.00 pm" for "2.00 pm".—*(Chris Philp.)*

Clause 38

Nuisance begging directions

Alex Norris: I beg to move amendment 140, in clause 38, page 39, line 23, at end insert—

"(c) any interference with the person's attendance at substance abuse support services, mental or physical health support services, or places of worship."

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

Amendment 139, in clause 38, page 39, line 36, at end insert—

"(10) The Secretary of State must lay an annual report before Parliament on the application of the provisions introduced by this section."

Clause stand part.

Alex Norris: It is a pleasure to serve with you in the Chair, Sir Robert.

Clause 38 brings us to the provisions that concern nuisance begging. This clause, and subsequent clauses on homelessness, are closely tied to the repeal of the Vagrancy Act 1824 by the Police, Crime, Sentencing and Courts Act 2022. The 2022 Act will repeal the Vagrancy Act once the relevant provisions have been commenced, but the Government have said that they will commence those provisions only when replacement legislation is in place. For better or for worse, the clauses in front of us are that replacement legislation.

The repeal of the Vagrancy Act was a momentous victory for campaigners, because it effectively decriminalised rough sleeping and begging. The repeal had cross-party support, and many in the House shared the view that those who are destitute and living on the street should not be criminalised or threatened but offered support and assistance. Subsequently, the Government consulted on replacing the Vagrancy Act and set out new offences and powers regarding, for example, the prohibition of organised begging, which is what we are discussing and which is often facilitated by criminal gangs, and the prohibition of begging where it causes a public nuisance, such as next to cashpoints or in shop doorways.

Clause 38 gives effect to some of the Government's proposals by introducing the power for a constable or local authority to issue a move-on direction to a person if they are engaging in, have engaged in or are likely to engage in nuisance begging. In this context, it is important that we differentiate between nuisance begging and nuisance homelessness, which we will come to. We strongly object to the provisions on nuisance homelessness, but the issue of nuisance begging is more nuanced. We know that some organised criminal gangs use begging for their own ends. They often use begging strategies that are aggressive and antisocial, and they often exploit challenged people to gain illicit private profit off the back of the characteristic kindness of the British people. That is wrong, and we therefore support powers that can tackle organised nuisance begging, but we think the provisions require greater humanity to protect those who are being exploited and those who are genuinely destitute.

The risk is that clause 38 and related clauses will target anyone, regardless of the nature of the harm. As Crisis has said, an effective blanket ban on begging risks pushing vulnerable people into dangerous places where they may be subject to greater abuse or violence. Someone simply sat alongside a cap or a cup could fall foul of the definition. That would be a mistake and risk harming some of the most vulnerable people in society. Many people become homeless and resort to begging through no fault of their own but because of situations such as trauma or family breakdown. They should not be doubly punished for falling through the cracks of a welfare system that is creaking under the strain of widespread poverty in our society. We are concerned that the Government have not quite landed the provision right.

Clause 38 allows for an authorised person—in this case, a constable or someone from the relevant local authority, which is defined in clause 64—to give a nuisance begging direction to someone over 18 who they think is engaging, has engaged or will engage in nuisance begging. The written direction will require the person to leave a certain place and not return for up to 72 hours. We do not, in principle, object to the police or local authority having tools to disrupt highly organised nuisance begging operations, which we know are active, but we fear that the provision will sweep up others along the way.

Amendments 139 and 140 seek to introduce safeguards. Amendment 140 seeks to ensure that, where nuisance begging directions are used, they should not interfere with a person's attendance at substance abuse support services, mental or physical health support services, or their place of worship. Clause 38(5) states that a direction cannot interfere with a person's work, their education

or a court order. That is wise, but adding substance abuse support services, health services and someone's place of worship would complete the picture. The amendment is straightforward and reasonable. Its intention is to protect the support and assistance provided to people who might be forced into begging, and to ensure that the Government's nuisance begging directions do not cut across or undermine that support.

The nuisance begging powers are significant and could have unintended consequences, and amendment 139 is an attempt to maintain some parliamentary oversight. It would require the Secretary of State to lay an annual report before Parliament on the application of the provisions in clause 38, which we think would be an important check to ensure that they are not causing unintended harms, to give Members a mechanism to raise concerns, and to give a degree of parliamentary accountability. I do not think the amendment is particularly onerous. I would like to think—I would be concerned if this was not the case—that the Government will be monitoring the application of the powers and have a sense of how they work and whether they are dealing with the problem that they want them to deal with.

If that is not the Government's approach, I hope that the Minister will talk a little about what assessment has been made of the possible risks, particularly for those who are facing genuine destitution and may fall foul of the legislation. For example, what will be the impact of imposing a one-month prison sentence or a £2,500 fine on someone in breach of these provisions, when they are already almost certainly in severe financial difficulties? We will get to appeal provisions, but will those who are facing these challenges be likely to be able to use those provisions? Is there not a risk of rather unequal justice? Further, having made such an assessment, what steps will the Government take to introduce mitigation?

My amendments suggest a way to put in some safeguarding. I hope that the Minister can give us assurances, at least, about the Government's understanding of how they will differentiate between the genuine, criminal, organised nuisance operations and people who are just in a dire personal situation. It is important that the Committee is mindful of that.

Chris Philp: It is a pleasure to serve under your chairmanship, Sir Robert—I think for the first time, though I hope it is the first of many. I am grateful to the shadow Minister for explaining his two amendments to clause 38, which provides for nuisance begging directions. Before I respond to his amendments, let me provide a little wider context for clauses 38 to 64, which the Committee will be relieved to hear I do not propose to repeat at the beginning of our debate on each clause.

These clauses will replace the Vagrancy Act 1824, which was prospectively repealed by the Police, Crime, Sentencing and Courts Act 2022, as the shadow Minister said. The hon. Member for Stockton North and I fondly remember our extensive debates on that subject some years ago. This package includes directions, notices and orders where someone is nuisance begging or nuisance rough sleeping; offences for nuisance begging and for facilitating organised begging; and a replacement offence for being found on enclosed premises for an unlawful purpose.

The Government and, I think, the House as a whole take the view that nobody should be criminalised simply for being destitute or homeless. That is why we are committed to bringing into force the repeal of the outdated Vagrancy Act 1824, using regulation-making powers under the PCSC Act—a Henry VIII power to which I presume the shadow Minister does not object. We have put in place a substantial package of support for people who are genuinely homeless, sleeping rough or at risk of doing so. Engagement and offers of support must continue to be the starting point in helping those who are begging genuinely or sleeping rough to move away from a life on the streets and into accommodation. However, we have heard from frontline local authority partners and police that there is still a role for enforcement where that engagement does not work.

It is important not to conflate begging and rough sleeping—although of course the two can be linked—which is why we treat them separately in the Bill. The Government consulted on replacing the Vagrancy Act in 2022 and the majority of respondents were in favour of introducing replacement begging offences, recognising the harm that it causes. We set out our plans in more detail in the antisocial behaviour action plan, published in March 2023.

Accordingly, clause 38 provides that where an authorised person, defined in subsection (7) as a police constable or the relevant local authority, is

"satisfied on reasonable grounds that the person is engaging, has engaged, or is likely to engage, in nuisance begging",

they can issue a direction to move on. We will come on to the definition of nuisance begging, which is set out in clause 49. Such a direction will require the person to leave the specified location and not to return for up to a maximum of 72 hours, giving respite to those who are negatively impacted by the nuisance. It can also include a requirement for the person to take their belongings, and any litter they have been responsible for, with them. The direction must be given in writing, and it is an offence not to comply with it. The penalty for failing to comply is up to one month's imprisonment or a level 4 fine, which is up to £2,500, or both.

Jess Phillips (Birmingham, Yardley) (Lab): Can the Minister tell me how somebody looks likely to beg?

Chris Philp: That is a facts-specific determination, but it might, for example, be that someone is carrying a sign soliciting funds, has positioned themselves in a particular location with a receptacle for collecting money, or is positioned near an ATM. It might be that someone has been begging and, although they have not been observed doing so by a police officer, there is a reasonable suspicion that they might do so in the future.

The meaning of nuisance begging is not any begging; it is quite precisely defined in clause 49, which we will come to. Begging in general is not being criminalised. That was the purpose of repealing the 1824 Act, which was very wide in its scope. We are defining nuisance begging in this Bill to be quite precise and targeted. Obviously, we will discuss that in detail, probably in the next hour or so.

Alex Cunningham (Stockton North) (Lab): I note that clause 38(9) refers to one month's imprisonment. Can the Minister explain how he reconciles that new sentence with the Sentencing Bill's presumption against short sentences? These people may never go to prison.

Chris Philp: The hon. Gentleman asks an excellent question. There is in the Sentencing Bill a presumption against short sentences, defined as under 12 months.

[Chris Philp]

However—as he knows, as a shadow Justice Minister—that presumption does not apply where the offender is already subject to an order of the court. For a first offence, where the offender is not subject to an order of the court, he is quite right: there would be a statutory presumption—a strong presumption—against a sentence of less than 12 months. If some other kind of court order has been issued for a first offence, the provisions of the Sentencing Bill—in particular the presumption against short sentences—will not apply on any subsequent appearance that the offender makes before the magistrate for a later offence, for so long as that order of the court is in force. That is how the two provisions interact, but that was a very good and fair question. I trust that my answer deals with the point that he raised.

Alex Cunningham: It doesn't.

Chris Philp: The hon. Gentleman says from a sedentary position that it does not, but it does. I explained how if the offender is subject to an order of the court following a first offence, then the presumption against a short sentence does not apply for a second or subsequent offence. That is how the two interact. The disapplication would apply only on the first occasion; if a court order is made, the disapplication will not apply to subsequent offences for so long as that court order is in force. I think that is a relatively clear and coherent position.

Clause 38(5) provides that a direction must, so far as is practicable, avoid interfering with a person's attendance at work or education, or with any requirements of a court order—as I have just mentioned—to which the person is subject. Amendment 140 seeks to augment that provision to avoid a direction interfering with the person's attendance at a substance abuse support service centre, mental or physical health services or a place of worship.

On the face of it, those things sound broadly reasonable, because there are numerous circumstances in which a person subject to a nuisance begging direction may want to enter an area to access those services. It is worth saying that a direction will have a maximum duration of 72 hours, so we are not talking about long periods. Directions must also be proportionate and reasonable. We expect those exercising these powers—a constable or the relevant local authority—to take a joined-up approach and consider their exercise on a case-by-case basis. There is a lot of good practice in multi-agency working to build on, to ensure that people can access appropriate support services.

10 am

All of us would want our fellow citizens, whatever condition they find themselves in, to be able to access mental health services, substance abuse services and so on. However, the right place for this level of detail—which is reasonable in spirit—is the guidance underpinning these provisions. There are other things, which are not in the amendment, that we might also want authorities to take into account. Domestic abuse counselling might be another example—we would not want to interfere with that—along with probably other things that we will not think of this morning.

Once we get beyond the fundamental basics of employment and education and into these other, important but more detailed points, such as access to health services, DA counselling and so on, we get into a level of detail and nuance that is better placed in the guidance. When drafted, the guidance will reflect the spirit of what the shadow Minister has set out in his amendment, and probably some other things that he has not—I am sure for reasonable reasons—but which might be equally important.

Amendment 139 is a relatively standard Opposition amendment asking for an annual report. I will give the relatively standard reply, which I have given probably 40 or 50 times over the last few years during the passage of various Bills.

Alex Norris: There are another six to come.

Chris Philp: I am looking forward to repeating it.

There are many parliamentary mechanisms for monitoring the implementation of Bills, not least parliamentary questions, scrutiny by Select Committees and, critically, the normal process of post-legislative review, which takes place between three and five years after Royal Assent. I hope on that basis that the shadow Minister will forbear from pressing amendments 140 and 139. I commend the clause to the Committee.

Alex Norris: I am grateful to the Minister for his answer and for saying that the Government believe that, for nuisance begging and nuisance rough sleeping, support is the starting point. That is an important message. I also share his view that they are not the same thing, and our treatment of the two are different for that reason. I also agree that there is a place for enforcement, particularly for nuisance begging, although I think the case is weaker for rough sleeping. However, he also said that this is not about just any begging. Although I do not want to pre-empt our discussion of clause 49, which we will debate in due course, the way it is drawn up means that there will not be much left, frankly.

One theme that I will return to—particularly when we come to the homelessness provisions and the point my hon. Friend the Member for Birmingham, Yardley made about whether someone looks "likely"—is that this will be in the eye of the beholder. That will be a challenge, particularly for rough sleeping, but also in this area, so it is right that there should be anxieties.

I am grateful for the Minister's comments on amendment 140. As he says, the list is probably not comprehensive, but I am glad that he said it was reasonable in spirit, which is definitely the kindest thing he has said to me in our four months together so far—I will take that as the strongest affirmation that I am likely to get. He has committed to address this issue through guidance, which is perhaps a better way to do it, so I am happy to withdraw the amendment on that basis.

Similarly, on amendment 139 and this point about post-legislative reviews, that is obviously not something we feel in this place. I suspect it is something that is more internal to Departments. There is a point here about how well we do or do not monitor the impact of legislation three or five years after we have passed it. We do not—we move on and do not really learn anything from it. However, we have had that argument on previous

clauses, and I will not rehearse it again. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 38 ordered to stand part of the Bill.

Clause 39

NUISANCE BEGGING PREVENTION NOTICES

Alex Norris: I beg to move amendment 142, in clause 39, page 40, line 12, leave out "3 years" and insert "1 year".

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

Amendment 138, in clause 39, page 40, line 31, at end insert—

"(9) Where a person has been served a nuisance begging notice the serving authority must refer that person to their local authority who must provide guidance relating to welfare rights or any other associated issue the person faces."

This amendment would require the local council to offer support for people given nuisance begging notices.

Clause stand part.

Amendment 141, in clause 40, page 41, line 5, at end insert—

"(c) any interference with the person's attendance at substance abuse support services, mental or physical health support services, or places of worship."

Clause 40 stand part.

Clause 41 stand part.

Clause 42 stand part.

Alex Norris: Clauses 39 to 42 relate to nuisance begging notices, which will be a step up from the nuisance begging directions discussed previously. Clause 39 sets out new powers for an authorised person to give a nuisance begging prevention notice to a person appearing to be aged 18 or over if satisfied on reasonable grounds that the person is engaging, or has engaged, in nuisance begging. This is a notice that will prohibit the person from engaging in a specified behaviour for a specified period of time, or require them to do specific things, within specific times and in—or not in—certain places. Clause 39 (3) provides that the maximum duration of any requirement is three years. That is a significant period of time. Subsections (7) and (8) make it an offence to fail to comply with a nuisance begging prevention notice without reasonable excuse, the maximum penalty being one month imprisonment—I would be exceptionally surprised if that is how it is intended to be used—or a fine of up to £2,500, or both. That is a punishment that is likely to be difficult to enforce.

The powers contained in these clauses are substantial. They place stringent requirements on individuals not to engage in certain behaviour. Of course, that can also be used positively to ensure an individual engages with support services. As in clause 38, an authorised person is defined as a police constable or someone from the relevant local authority. We know that police officers up and down the country already contend with heavy workloads and are not necessarily experts in nuisance begging or homelessness. I would be interested to hear from the Minister about how that might be covered in guidance, but there is a real risk that these new powers send the signal that begging is a criminal justice issue and that it is the police's job to sort. In some cases it might be, but in many if not most it will not be. I hope to hear the Minister say that he does not think this is an issue we can police our way out of. Yes, we need to break organised criminal gangs, but beyond that the reasons for people ending up destitute and begging for money are service failure or their engagement with services across the piece all the way to the final stage of sitting next to a cap or a cup. It is wrong to say that that is simply a criminal justice issue.

Alex Cunningham: We had this problem in Stockton with nuisance begging, with people aggressively approaching customers sitting outside a café having a coffee. The local authority and the police force worked together on a solution and have put the resources in, but I am concerned that it could become just a police matter, as my hon. Friend has outlined. Can he think of any way we can get round that, such as resources for local authorities?

Alex Norris: I am grateful for that intervention. The case for resources for local authorities is one that we cannot make enough. My hon. Friend gives a good example of partnership working that has not just turned to criminal justice outcomes and told the police, "Well, this is now your problem to deal with." We need that good faith partnership working and I hope that my amendments help to promote that to some degree.

Amendment 138 seeks to mitigate those challenges by inserting a new subsection so that

"Where a person has been served a nuisance begging notice the serving authority must refer that person to their local authority who must provide guidance relating to welfare rights or any other associated issue the person faces."

The amendment seeks to ensure that someone who receives a nuisance begging notice is referred to the right support services and can liaise with the right qualified individuals on the matter. That would move away from criminalising the person and towards making sure that they get support to make a change in their life. My amendment is one way to do that and I would be interested in hearing about other ways from the Minister. In a previous debate, the Minister said it would be "support first", and this is a way to make that real.

Clause 40 governs what can and cannot be required in the prevention notice. I have sought to amend that with amendment 141, which mirrors what I said in the previous debate. I will not repeat those arguments or press this to a Division, on the basis of what the Minister offered.

Amendment 142 would reduce the period that a prevention notice may be in place from three years to one year. Three years is a lengthy period for which—we will discuss this in relation to clause 49—someone could be told that they cannot attend their local town centre or high street. That could be based on the judgment of quite a junior officer, with minimal oversight, on pain of a month in prison or a fine of £2,500. Setting to one side those who are in genuine destitution, who I cannot believe we would want to banish from their town centres, part of the risk is that criminal gangs will cycle through the vulnerable people that they are exploiting. It will not matter a jot to those gangs that that person has to

[Alex Norris]

deal with a very difficult consequence for their life; they will move on to someone else. Amendment 42 would reduce the period of the notice down to one year. I hope that the Minister can explain the rationale for choosing three years.

Clause 41 is about the appeals process. We support an appeals process being included in the Bill, but I have significant concerns, which will be mirrored in the debates relating to homelessness, about access to justice and about whether the most destitute will be able to engage with the magistrates court to try to get a notice lifted. I would not challenge the power in clause 42 to vary notices, as I suspect there will be moments when they will be revised down.

Those are some ideas to try and soften some of the provisions. I am interested in the Minister's views.

Chris Philp: As the shadow Minister explained, his amendments are to clauses that provide for nuisance begging prevention notices. The notices are a further tool that would be made available to police and local authorities to tackle nuisance begging, where it arises. The nuisance begging prevention notices that are set out in this and subsequent clauses follow the structure of existing notices such as community protection notices, which the police and local authorities are already familiar with using.

The nuisance begging prevention notice builds on the move-on direction in clause 38, allowing for an escalated approach, and can be tied in with relevant offers of support. The notice will prohibit the relevant nuisance begging behaviours and help to direct the person into the relevant support where it is necessary to do so in order to prevent the nuisance behaviour. For example, the notice may state that the individual must not beg close to cashpoints or that they must not approach people to ask for money, and also that they should attend a drug treatment centre so that their support needs can be assessed. In that way, the public would be protected and any relevant underlying drivers causing the nuisance begging could be addressed.

In relation to the point that the shadow Minister raised, I can confirm that the intention is absolutely to support people. We want to help address the underlying causes of begging and rough sleeping, which may be related to mental health problems or drug problems. I will give the shadow Minister a sense of the thinking on this. In drafting the Bill, there was extensive debate about whether we could go further and actually require people to have drug treatment, mental health treatment or whatever, or to attend a refuge or a shelter. There is evidence that people do not always want to accept those offers of help, so we considered whether we could introduce a power to essentially require them to do it. Having taken legal advice, it was suggested that that would not be lawful, and that is why this is constructed in the way it is. However, hopefully that illustrates that the Government's thinking is that we want to offer more assistance and to get more people who are sleeping rough or begging into mental health treatment, drug treatment and alcohol treatment. We thought of going further, but for legal reasons that are principally connected to the European convention on human rights, we were not able to do so. Hopefully that illustrates the thinking on these issues.

Amendment 142 seeks to reduce the maximum duration of a nuisance begging prevention notice from three years to one year. I should start by stressing that the three years provided for in the Bill is the maximum period over which the notice can be enforced, and, naturally, where appropriate, a shorter timeframe can be specified. It is for the authorised person, which will very often be a local authority officer, not just a police constable, to consider the individual circumstances—all the relevant information about the person's circumstances—to decide what is appropriate, reasonable and proportionate.

10.15 am

In some cases, prohibiting someone from engaging in nuisance begging behaviour for three years might be necessary to give assurance to other members of the community that that behaviour is not acceptable and is being taken seriously. Clause 42 does make provision for notices to be varied or discharged, should circumstances and need change during the period of the notice. Shortening the maximum period from three years to one, as the amendment seeks to do, would reduce the flexibility afforded by these tools and the ability of the authorised person to help members of the public who have been negatively impacted.

Amendment 138 seeks to provide that, where a nuisance begging prevention notice is issued, a person must be referred to their local authority, which in turn must provide guidance. I spoke to that a moment ago, and gave a flavour of the Government's thinking; we want more people who are sleeping on the streets, or who are begging, to get referred into support.

The shadow Minister mentioned that he was concerned that the police would not have enough time to do that; we are also encouraging the police to always take a problem-solving approach to problems where they encounter them. I am specifically encouraging the police to refer more people into drug treatment. I have been working with Chief Constable Richard Lewis, the chief constable of Dyfed-Powys—who is also the National Police Chiefs' Council lead for drugs—to get more people referred into treatment, and I will discuss that with him further on Monday of next week. But, of course, it is not just police that can use these powers; local authorities, as the public health authority, often have oversight of many of these treatment options, particularly for drugs and alcohol, and also have close relationships with the health service in relation to mental health.

Jess Phillips: What concerns me, regarding certainty of referral, is if there are cases where people—where I live in Birmingham, the biggest problem in nuisance begging is Romanian women who are clearly being trafficked; there are no two ways about that. I fear their criminalisation more so than their traffickers' criminalisation, which is nil. I wonder whether there could be a mechanism for referral directly to the national referral mechanism. Both the police and local authorities act as first responders in the national referral mechanism already, so that would not need a change in the law. Maybe that is a compulsory referral that could be made.

Chris Philp: The hon. Lady raises an important point. As she says, first responders, among others, are already under an obligation—I think a statutory obligation—to

make referrals into the national referral mechanism. I suspect that it was the Modern Slavery Act 2015—I am looking to my colleague, the Under-Secretary of State for Justice, my hon. Friend the Member for Newbury, for assistance; it probably is that Act—that enacted our obligations under the ECAT, or Council of Europe convention on action against trafficking in human beings, treaty. So, those obligations already exist. I would certainly agree with the hon. Lady that, if first responders—either the police or indeed local authorities—think that someone is a victim of trafficking or modern slavery, they should certainly make the referral into the national referral mechanism.

In terms of potential prosecution, obviously there are provisions in the Modern Slavery Act 2015, where someone is the victim of trafficking, that provide protection in those circumstances. I would also say that there are some circumstances in which referrals into support are not necessary. There are many cases—probably the majority of cases—where they are necessary, and I would expect that to happen in those, whether it is the police or a local authority, but there are also circumstances in which it is not necessary, or where the help has been repeatedly refused in the past. I therefore think that a blanket requirement on the face of the Bill, as per the amendment, probably is not appropriate.

However, again, I agree with the spirit enshrined in the shadow Minister's amendment, and I would like to put it on record that the expectation from the Government, as well as, I suspect, from the Opposition, is that, where somebody needs support—mental health support, drug treatment support, alcohol treatment support, domestic abuse support, or protection from trafficking and other vulnerabilities—the police and local authorities will make the appropriate referral. But that will not necessarily apply in all cases, whereas the amendment, as drafted, covers everyone, regardless of whether there is a need or not.

Amendment 141 is similar to amendment 140, which was in the previous group. As I said then, I am not sure that it is possible or desirable to set out all the possible circumstances in which an individual may need access, so guidance is the right place to put that.

Jess Phillips: The expectation, rather than necessarily the duty in law, is a referral. Beyond a referral, what happens if a woman nuisance begs in the 1,000 days that it takes to get referral through the national referral mechanism? It takes women 1,000 days to get a conclusive grounds decision, and it takes men 500. Or what if someone is waiting for a mental health referral? As I think every Member will know, you might as well wee in the wind. What happens if they nuisance beg in the 1,000 days, or a year, from when they are first helped to when they can get counselling in a domestic abuse service? What happens in the gap?

Chris Philp: If someone is given a nuisance begging prevention notice, the expectation will be that they comply with it. If there is any prosecution for a breach, it may be that the protections in the Modern Slavery Act would apply. Again, if a police officer or local authority officer thinks there is a problem with trafficking, it may well be that they think it inappropriate to make the prevention order. It is a power, not an obligation; they do not have to give the notice. We would expect the officer to have regard to the circumstances of the individual, which might include those the hon. Lady described. The national referral mechanism can take quite a while, although it is speeding up, but it may be that other support is available much more quickly than the support that follows an NRM reasonable grounds decision.

To repeat the point, the expectation is that support is made available where it is necessary, but support could be provided hand in hand with a nuisance begging prevention notice. The authorities could seek to prevent nuisance begging, which is bad for the wider public, by using the notices and other powers, while at the same time ensuring appropriate safeguarding. The two are not mutually exclusive; it is possible to do both at the same time. I also draw the Committee's attention to clause 39(7), which is relevant to the intervention. It says it is only an offence to breach the conditions "without reasonable excuse". For example, if someone has been coerced into behaviour that results in a breach, that coercion could—it would be for the court to determine—be a reasonable excuse, and therefore a defence.

I hope that that explains the purpose of clauses 39 to 42. Although I understand and agree with the spirit of the amendments, they are not necessarily the right way to achieve the objectives that the shadow Minister set out.

Alex Norris: I am grateful for the Minister's response. The "reasonable excuse" provision in clause 39(7) gives a degree of comfort, but the reality is that, particularly in the trafficking cases mentioned by my hon. Friend the Member for Birmingham, Yardley, individuals will not say that they have been coerced into nuisance begging. Instead, they will take the punishment; they will not be able to proffer what would be considered a reasonable excuse. That is our concern.

The debate on amendment 141 mirrored previous debates, and I am happy not to move it on the basis of the answers I have had. On amendment 142, I hear what the Minister said about the three-year duration being a maximum, not a target, but I fear that because it is in the Bill, it will become a magnet. With regards to police constables, we know about their training and codes of practice, so we can be confident about the criteria that they are expected to apply, but we are concerned that the Bill is—for good reason—drafted in such a way that very junior local authority officers could be making that decision.

Jess Phillips: Who have never heard of the NRM.

Alex Norris: Who do not know anything about the national referral mechanism and have no criteria to make a judgment against. Frankly, an authorised person who works frequently in a town centre or on a high street might just really not like someone. This power would be available to them, with minimal oversight, and there would be little recourse against it, which is why I think that three years is too much. I will push the amendment to a Division as a result.

I am grateful for what the Minister said about amendment 138 and support first; I completely take him at face value, and that is clearly what he said. My anxiety, as we enter the final year of this Session of Parliament, is that I have done lots of these Bills, and Ministers change. I thought that I had a really good concession from a Minister on the Levelling-up and

[Alex Norris]

Regeneration Act 2023, and the next day the Minister changed; I have learned from that. What is in the Bill is important, and I am really keen that that message be in it, so I will also push amendment 138 to a Division.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 9.

Division No. 3]

AYES

Cunningham, Alex	Norris, Alex
Dowd, Peter	
Harris, Carolyn	Phillips, Jess

NOES

Drummond, Mrs Flick	Jones, Andrew
Farris, Laura	Mann, Scott
Firth, Anna	Metcalfe, Stephen
Ford, rh Vicky	Philp, rh Chris
Garnier, Mark	

Question accordingly negatived.

Amendment proposed: 138, in clause 39, page 40, line 31, at end insert—

"(9) Where a person has been served a nuisance begging notice the serving authority must refer that person to their local authority who must provide guidance relating to welfare rights or any other associated issue the person faces."—*(Alex Norris.)*

This amendment would require the local council to offer support for people given nuisance begging notices.

Question put, That the amendment be made.

The Committee divided: Ayes 5, Noes 9.

Division No. 4]

AYES

Cunningham, Alex	Norris, Alex
Dowd, Peter	
Harris, Carolyn	Phillips, Jess

NOES

Drummond, Mrs Flick	Jones, Andrew
Farris, Laura	Mann, Scott
Firth, Anna	Metcalfe, Stephen
Ford, rh Vicky	Philp, rh Chris
Garnier, Mark	

Question accordingly negatived.

Clause 39 ordered to stand part of the Bill.

Clauses 40 to 42 ordered to stand part of the Bill.

Clause 43

Nuisance begging prevention orders

Chris Philp: I beg to move amendment 70, in clause 43, page 42, line 21, after "application" insert "by complaint".

This amendment provides for applications for nuisance begging prevention orders to be made by complaint.

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

Clause stand part.

Clause 44 stand part.

Government amendments 71 to 75.

Amendment 143, in clause 45, page 44, line 16, leave out "5 years" and insert "1 year".

Government amendment 76.

Clauses 45 to 47 stand part.

Chris Philp: Clauses 43 to 47 introduce nuisance begging prevention orders. Alongside nuisance begging directions and nuisance begging prevention notices, these orders—the third tier of escalation—are designed to be an additional tool available to local authorities and the police to keep communities safe. They are not about criminalising the vulnerable or the destitute, but rather acknowledge the impact that nuisance begging can have on individuals and communities, and empower local partners to deal with it in the most appropriate way.

10.30 am

Nuisance begging prevention orders allow for court-imposed prohibitions on nuisance begging behaviours and, critically, the ability to direct an individual to do positive things, such as follow a programme of support, where a court feels that is reasonable to prevent or stop the person from engaging in nuisance begging. I mentioned before that we wondered if we could give police or local authority officers the power to do that themselves, and we concluded that we could not. This is a court making those directions, which is obviously very different from a police officer or local authority officer acting spontaneously.

A person may be directed to take up a drug treatment offer to prevent them from nuisance begging, if the court is satisfied that drug misuse has driven their behaviour. The orders are issued by magistrates courts on application by an authorised person, which is a local authority or the police. An order can be made if a person has engaged in nuisance begging or has not complied with a nuisance begging direction or a nuisance begging prevention notice. Partnership working is required to seek an order containing positive requirements, as the local authority or police applicant will need evidence that the necessary support is available and suitable. Given the judicial role in the making of an order and the protections that go along with that, the court may set more onerous conditions than those that may be in a notice. That is the point that I was making when I commented on the Government's policy development.

Government amendments 70 to 76 make various changes to the provisions relating to nuisance begging prevention orders. Amendment 70 provides that applications for these orders will be made by complaint, which ensures that the magistrates court civil jurisdiction procedure, as provided for in part 2 of the Magistrates' Court Act 1980, is applicable to those proceedings. Amendment 71 provides that the orders are to take effect from the beginning of the day after the day on which the order is made. Amendments 72, 74 and 76 provide that, where applicable, an order is to take effect following a person's release from custody, rather than from the day the order is made. Amendment 75 is a clarificatory—dare I say technical?—amendment making it clear that the specified period for any orders made must be a fixed period. Finally, amendment 73 makes drafting changes for readability. I will respond to amendment 143 from the hon. Member for Nottingham North once he has explained his thinking on it.

Alex Norris: I will not repeat a lot of what I have said so far. Clause 43 concerns nuisance begging prevention orders, the most severe of the three tiers of powers that the Bill covers. I think it makes sense to align these tiers, as the Minister said in a previous debate, with other civil-type powers, so that they are easy to understand. As defined in clause 43, an authorised person can obtain the order on application to a magistrates court. If the court is satisfied that someone aged 18 or over has engaged in nuisance begging, and has failed to comply with the move-on direction and a notice, this seems like a reasonable escalation of the process for them to face.

My concern is mainly with the duration of such orders; clause 45(4) states that their duration may not exceed five years. That is quite a long period. Is that a proportionate response to the challenge that we are trying to tackle, which is serious and organised nuisance begging and aggressive and antisocial nuisance begging? Is a five-year exclusion the right thing to do, or, again, will it harm vulnerable people? We know that gangs will move on to new people, and the others will be left with the consequences.

There is a degree of comfort in the fact that we are talking about magistrates courts, so I have less anxiety about the measures than I did about the previous provisions, in which case I really think that three years will become a magnet. We can have confidence that a magistrates court will look at the full picture when considering an order of up to five years, but I am keen to know why the five years is being written in sand. Through amendment 143, I seek to reduce the period to one year, as a way of finding a balance between protecting vulnerable people and disrupting organised activity. An appeals process is set out in these clauses, and although this issue is of greater concern in the next part of the Bill, I think there is an access to justice issue for the people we are talking about. How well will they be able to use the legal processes that are there to protect them, and what support will they get to do so? I will stop there, but I am particularly keen to know why five years was the chosen duration of the orders.

Chris Philp: Briefly, five years was chosen—an increase from the three years in the previous provisions—because, as the shadow Minister said, the order is supervised by a court. That duration is a maximum, rather than a target. Courts are very well used to dealing with maximum durations, particularly in the context of sentencing. For example, the prison sentences handed down are often a great deal shorter than the maximum set out. As a matter of evidence and practice, courts often go a long way below the maximum—although we in Parliament might wish they went closer to the maximum in some cases. The duration is set at five years because courts have discretion and are used to working with maximum durations; but the court does have to look at all the relevant information and evidence before deciding.

Finally, in relation to the positive requirements imposed, we have offered further safeguards, in that nuisance begging prevention orders can be varied or discharged, should circumstances change during the period. I hope the shadow Minister accepts that giving a court that flexibility is reasonable. We do it the whole time with criminal sentencing, and there is evidence that courts use that power with a great deal of restraint sometimes. I hope that explains the Government's thinking on the issue.

Amendment 70 agreed to.

Clause 43, as amended, ordered to stand part of the Bill.

Clauses 44 ordered to stand part of the Bill.

Clause 45

DURATION OF NUISANCE BEGGING PREVENTION ORDERS

Amendments made: 71, in clause 45, page 44, line 8, leave out "on the day" and insert

"at the beginning of the day after the day on which".

This amendment provides for a nuisance begging prevention order to take effect at the beginning of the day after the day on which it is made.

Amendment 72, in clause 45, page 44, line 9, leave out "subsection (2)" and insert "subsections (2) and (2A)".

This amendment and amendments 74 and 76 provide that where a nuisance begging prevention order is made in respect of certain offenders, the order may take effect from a later time described in the table inserted by amendment 74.

Amendment 73, in clause 45, page 44, line 12, leave out

"be made so as to take"

and insert "provide that it takes".

This is a drafting change.

Amendment 74, in clause 45, page 44, line 13, at end insert—

"(2A) If a nuisance begging prevention order is made in respect of a person described in the first column of the following table, the order may provide that it takes effect as mentioned in the second column.

Description of person	Time when order takes effect
A person who has been remanded in custody, or committed to custody, by an order of a court	From the beginning of the day on which the person is released from custody
A person subject to a custodial sentence	Immediately after the person ceases to be subject to a custodial sentence"

See the statement for amendment 72.

Amendment 75, in clause 45, page 44, line 16, leave out "not exceed" and insert

"be a fixed period not exceeding".

This amendment clarifies that the specified period for an order must be a fixed period.

Amendment 76, in clause 45, page 44, line 19, after "section" insert

"—

"custodial sentence" means—

(a) a sentence of imprisonment or any other sentence or order mentioned in section 222 of the Sentencing Code or section 76(1) of the Powers of Criminal Courts (Sentencing) Act 2000, or

(b) a sentence or order which corresponds to a sentence or order within paragraph (a) and which was imposed or made under an earlier enactment;"—*(Chris Philp.)*

See the statement for amendment 72.

Clause 45, as amended, ordered to stand part of the Bill.

Clauses 46 and 47 ordered to stand part of the Bill.

Clause 48

OFFENCE OF ENGAGING IN NUISANCE BEGGING

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

The Chair: With this it will be convenient to discuss clause 49 stand part.

Chris Philp: I would like to deal first with clause 49, which defines, as I said earlier, the concept of nuisance begging, which underpins the behaviours being targeted in the preceding clauses that we have debated this morning.

The definition has two parts. First, subsection (2) defines a number of specific locations where begging will automatically be considered to constitute nuisance begging. These are locations where people are likely to be handling money or are less likely to be able to get away from the person begging. The locations include forms of public transport, including bus, tram and train stations, buses, trams and trains, taxi ranks, outside an area of business, near an ATM, near the entrance or exit of retail premises, and the common parts of any buildings.

Subsection (3) provides that it will also be considered to be nuisance begging when a person begs in a way that causes or is likely to cause: harassment, alarm or distress to another person; a person to reasonably believe that they or anyone else may be harmed or that the property may be damaged; disorder; and a risk to health and safety. Where necessary, those terms are further defined in subsection (4).

Distress includes distress caused by the use of threatening, intimidating, abusive or insulting words or behaviour or disorderly behaviour, or the display of any writing, sign or visible representation that is threatening, intimidating, abusive or insulting. That can include asking for money in an intimidating way or abusing people who refuse to give money, all of which I hope hon. Members will agree are behaviours that should not be tolerated on our streets and to which people should not be subject.

Jess Phillips: This is quite an exhaustive list, but much of the law is often London-centric. One of the problems where I live, certainly as a woman driving late at night, is people stopping traffic at road intersections. The feeling of intimidation can differ from person to person, but as a woman on her own at a crossroads in Birmingham, it feels intimidating to have people standing outside my car. How can we deal with that particular issue?

Chris Philp: I recognise the hon. Lady's point that we need to legislate for the whole country, not just London, and I say that as a London MP. We want to look after the entire country. I accept and agree with her that being approached in one's car when in stationary traffic or at a junction can be very alarming and worrying for everyone, but particularly for women. There are two things in the Bill that I think may assist. Clause 49(2)(e) specifically references a carriageway, which is defined in subsection (4) as having the meaning given by the Highways Act 1980, and I think that includes a road, so that would be covered.

Secondly, and more generally, clause 49(3) provides that the nuisance begging definition is engaged, or the test is met, if the person begging does so in a way that has caused or is likely to cause harassment, alarm or distress. That means that there is a "likely to cause" protection as well. I think that the combination of those two provisions—but especially the first, which expressly references a carriageway, meaning road, as defined in the 1980 Act—expressly addresses the point that the hon. Lady has reasonably raised.

To return to the substance of the clauses, it is important to include in the definition of nuisance begging behaviours that constitute a health and safety risk. There are many instances, exactly as the hon. Lady has just said, where people approach cars stopped at traffic lights. In addition to being on a carriageway, as caught under clause 49(2)(e), and in addition to potentially causing or being likely to cause harassment, alarm or distress, as caught under clause 49(3)(a), it may also be the case that they are causing a road traffic risk. Moreover, they could be causing a health and safety risk if they are blocking fire exits or routes that emergency services may need to pass down. I hope that shows that we have thought about this quite carefully.

10.45 am

As I have said already to the Committee, this is not about criminalising all begging, as the Vagrancy Act currently does. Rather, our aim is to protect the wider community where the begging impedes their ability to go about their daily business or where it makes people feel unsafe, as the hon. Member for Birmingham, Yardley set out in her intervention. The definition set out in clause 49 achieves that objective. Accordingly, and in addition to the directions, notices and orders that I have set out and we have debated, it is appropriate that this Bill includes a measure that makes nuisance begging a criminal offence, and that is set out in clause 48. This is not—expressly not—a replication of the current Vagrancy Act, which criminalises all begging. This is a much narrower offence, focused only on those engaged in nuisance begging behaviours, as set out.

We consulted on repealing the Vagrancy Act back in 2022, and the majority of respondents—particularly local authorities, as well as the police—were in favour of introducing some form of replacement offence. In the light of those responses to the consultation, it is reasonable that—along with the other measures in the Bill, which allow a non-criminal, escalatory approach to encourage people to take up support, as we have discussed—we recognise the real harm that nuisance begging can pose, which is why we want to make available another tool to be used by the police in the most egregious situations or where there is no vulnerability.

In line with the maximum penalties for the other nuisance begging-related offences when there is non-compliance, on conviction for an offence under clause 48 there is a maximum prison term of one month and/or a fine up to level 4, which is £2,500. We have already discussed the interaction of provisions of this nature with the Sentencing Bill, in response to the eagle-eyed intervention earlier this morning by the hon. Member for Stockton North.

To summarise, clauses 48 and 49 are essential to the effective replacement of the Vagrancy Act 1824, replacing that outdated and antiquated legislation with new powers fit for the 21st century. I commend these clauses to the Committee.

Alex Norris: Again, I will not speak in great detail, because we have covered most of the arguments under previous clauses. Clause 48 creates an offence of nuisance begging, with a punishment of up to a month in prison or a fine up to level 4 on the standard scale. I just want to understand a little more why the Minister thinks that the crime is needed as well as the three orders—the three different civil powers—in the legislation. Presumably, he would assume that those steps would be taken before this measure would be used and someone would not be sent straight to prison. It is really important to say that we do not think, particularly in the case of people with substance abuse or mental health issues, that a merry-go-round of short-term prison sentences is likely to prove effective, because it never has done previously.

Clause 49 is a particularly interesting one, because it gives the definition of nuisance begging and tests the Minister's point that the intent or the effect of the legislation is not to criminalise or prohibit all begging. That is a challenging argument to make, because if we look at subsection (2), on the locations where nuisance begging is engaged, and if we take those 10 locations together—in aggregate—that is a huge winnowing of the public space; indeed, it is virtually the entire town centre or high street. I think that that is by design rather than by accident. I think that if we talked to the public about those locations, they would think that they are the right ones. This is not an argument against it, but it is about understanding that the effect of the decision being taken here will be a prohibition on begging in the entirety of an amenity, because all that is left after 5 metres is taken from the entrance or exit of a retail premises is just a little bit of curtilage or carriageway—but, actually, the carriageway itself is excluded, as the Minister said, so after that there really is not very much left.

Jess Phillips: Just fields.

Alex Norris: As my hon. Friend says, there would just be fields.

I am keen to understand from the Minister that subsection (3) is an "or" provision to subsection (2) and not an "and" provision—*[Interruption.]* The Minister nods. Subsection (3) is therefore a significant increase, in the sense that the locations cease to matter quite quickly so long as the nuisance begging

"has caused, or is likely to cause"—

has yet to cause, but may well cause—harassment, possible harm or damage, or a risk to health or safety. This is a very broad and subjective test. I understand what training we could give to a constable, but I am interested to hear from the Minister about what training we can give to local authorities, or at least what guidance he intends to produce regarding the application of this subjective test. We do not intend to oppose this clause but, combined with the clauses before it, the total effect will be that the distinction between begging and nuisance begging, about which the Minister made a point, will not exist in any practical sense. The provisions are drawn broadly enough to apply in virtually any case where an individual wants to beg. We need to know what criteria the authorities are supposed to be working against, so I am keen to hear the Minister's answer.

Chris Philp: In relation to the first question about why the offence is set out in the clause when we already have the notices, orders and directions—three interventions—that we have discussed already, there may be some particularly egregious or persistent cases where the criminal sanction is necessary.

Of course, it is for the court to decide what is appropriate. We have already discussed that there is now a presumption—or there will be shortly, once the Sentencing Bill passes—against short sentences for those people not already subject to a supervision order from the court, so a custodial sentence is very unlikely to occur for a first conviction in any case. For offences of this nature, it is open to the court to impose a non-custodial sentence, even for subsequent offences where there is already a supervision order from the court in place. That might include a mental health or alcohol treatment requirement, a drug rehabilitation requirement and so on. It does not follow that the court having the power to impose custody will mean that it will necessarily choose to do so. I hope that answers the hon. Gentleman's question. It is a last resort power, but it is important that the police have that available to them.

In relation to the definition of nuisance begging—to which no amendments have been proposed—we want to make sure that people are able to go about their daily business; the hon. Member for Birmingham, Yardley set out in her intervention how nuisance begging can cause intimidation. The list of locations is based on feedback received from local authorities, business improvement districts, and retail associations and their members, based on their own practical experience. That feedback came from the consultation we conducted in 2022 and subsequently, and it is why the list of locations has been constructed in that way that it has.

Jess Phillips: As the Minister has said, I have outlined the places where I do feel intimidated. There was a homeless man—he died recently—who used to sit outside the local Asda where I live. He was a lovely man who chatted to everybody, and he was not intimidating at all. Would this definition account for him? He did not do anything wrong and I do not think he caused anyone any offence. Would he have fallen under this definition?

Chris Philp: Well, if he was sitting within 5 metres of the retail entrance, then yes, he would have come under this definition. However, I would point out that he would also have come under the definition set out in the current Vagrancy Act 1824; indeed, under that Act, he would have been in scope wherever he sat. If he was begging at the Asda entrance, then he was already breaking the existing law. This change is narrowing the definition a great deal. The fact that he was technically infringing the current Vagrancy Act, but was not arrested or enforced upon, probably illustrates the point that the police and local authority officers do exercise reasonable judgment. If they were not, he would have been arrested.

I hope that what would happen in such cases is as we discussed earlier; if someone like that man needs assistance of some kind—with mental health support, alcohol support, or whatever the issue may be—the expectation of the Government, and probably the Opposition, is that that intervention will happen. It would be interesting to find out if any attempt was made by the local authority in Yardley to assist that gentleman with whatever issue or challenge he may have been struggling with. To repeat the point, the provisions in this clause significantly narrow the scope of criminalisation in the law as it has stood for the last 200 years.

[Chris Philp]

Question put and agreed to.

Clause 48 accordingly ordered to stand part of the Bill.

Clause 49 ordered to stand part of the Bill.

Clause 50

ARRANGING OR FACILITATING BEGGING FOR GAIN

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

Chris Philp: I hope that the clause is relatively uncontentious and commands unanimous agreement across the Committee. It creates a new criminal offence for any person to arrange or facilitate another person's begging for gain, relating to the kind of exploitation that the hon. Member for Birmingham, Yardley referred to in an earlier intervention. Organised begging is often run by criminal gangs, sometimes with links to trafficking and other serious crimes. It exploits vulnerable individuals, causes nuisance to others and undermines the public's sense of safety. It benefits no one, and it exploits the vulnerable by making money off them.

The clause outlaws this despicable practice, making it unlawful for anyone to organise others to beg for gain. That can be anything from recruiting vulnerable people to take part in organised begging to driving them to places for them to beg. I am sure we have all seen, read about or heard about people getting dropped off to beg and then being picked up in luxury cars or vans later in the day. None of us wants to see that activity tolerated. It helps to gather funds that not only arise from the exploitation of vulnerable people, but can be used to support organised criminal gangs and their other illicit activities. The offence rightly helps to shift the risk to the criminals who are organising the begging and exploiting the most vulnerable. To reflect the severity of the activity and the role it plays in criminal gangs, the maximum penalty upon summary conviction will be six months in prison, an unlimited fine or both.

Alex Norris: This is the best of all the clauses that we will debate today, so the Minister will have the unanimity that he seeks. The real criminals are the ones who cause or arrange for people to beg on our streets in order to extract money for themselves. Those are the real villains, and it is right that there is an offence and a sanction. We hope to see it used, although I have slight anxiety about that. I am also glad that it is more severe than the sanction facing the individuals who themselves have been forced to beg. That is the right balance.

I am keen to understand one point. It is certainly my belief, and I think also the technical definition, that forced begging is a form of modern slavery. Therefore, presumably the Government's point is that this offence is not covered, or insufficiently covered, under modern slavery legislation. I am interested in the Minister's rationale there.

Similarly, we have to see it in that context. As my hon. Friend the Member for Birmingham, Yardley knows well from her work, there has been a retrenchment in recent years of the focus on modern slavery. The important provisions in the Modern Slavery Act 2015, particularly the referral mechanism, obviously have not worked as intended. People who are supposed to be waiting for 45 days for a decision are actually waiting closer to 600 or 700 days in many cases, and certainly multiple hundreds in virtually all of them. There has also been a sign from the Home Office, and from the Prime Minister himself, that in some ways modern slavery provisions are not compatible with the public's desire for a controlled migration system. That is not our view; we do not believe that that is right, but there is a slight disconnect between this provision and the 2015 provisions, and some of the national rhetoric. I am keen to understand the Minister's view on the interrelationship between this clause and the Modern Slavery Act 2015.

Chris Philp: I shall respond briefly to the question about the interaction of this clause with the Modern Slavery Act 2015. The Modern Slavery Act applies where someone is coerced, forced, tricked or deceived into labour of some kind, whereas people who are engaged in organised begging might sometimes do so voluntarily. This clause covers the cases where either they have agreed to it voluntarily or it is not possible to produce the evidence that they have been coerced, so it fills those two lacunae.

Question put and agreed to.

Clause 50 accordingly ordered to stand part of the Bill.

Clause 51

NUISANCE ROUGH SLEEPING DIRECTIONS

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

Chris Philp: I reiterate a point I have made already: nobody should be criminalised simply for being destitute or homeless. That is why we are committed to bringing into force the provisions to repeal the outdated Vagrancy Act 1824. Rough sleeping can cause harm to the individual involved, with increased risks of physical and mental ill health the longer somebody lives on the street.

11 am

There is a substantial package of support for people who are rough sleeping or at risk of doing so. The Government have made the unprecedented commitment to end rough sleeping within this Parliament, and to fully enforce the Homelessness Reduction Act 2017. We have already embarked on a strategy to shift the focus to prevention and move vulnerable individuals into multi-agency support, backed by £2 billion over three years.

The Government's rough sleeping strategy sets out a "prevention first" approach, which includes bringing forward investment so that nobody leaves a public institution such as a prison, hospital or care setting and ends up on the streets. Over the current spending review period, the Government are therefore providing over £500 million of funding for local areas to provide the tailored support they need to end rough sleeping over the next three years; £200 million for a single homelessness accommodation programme to help young people and those with complex needs, while continuing with the Housing First pilots and providing 6,000 move-on homes through the rough sleeping accommodation programme; and up to £186 million of funding for the rough sleeping drug and alcohol treatment grants.

The whole Government are united in their aim to end rough sleeping. I have set out the funding available to help to do that. But we also need to recognise that there is a balance to be struck here. While we agree that no one should be criminalised simply for being homeless, and that we need to do everything to support people out of life on the streets, we also need to acknowledge the rights of people in communities to feel safe and not suffer any unreasonable disruption themselves. The fact is, we cannot ignore that, in some circumstances, rough sleeping can cause a nuisance to others, including local businesses. Police and local authorities have told us that more direct and effective tools would be useful when that happens. Of course, many rough sleepers do not cause nuisance to others. The Bill does not affect that group. However, where rough sleepers do cause nuisance, it is reasonable that local authorities and the police have tools available to respond and, where appropriate, help to direct the individual towards appropriate support, including accommodation, mental health treatment or drug treatment services.

The rough sleeping clauses in the Bill, clauses 51 to 61, build on the existing good practices for tackling antisocial behaviour to allow for flexible, multi-agency working and staged enforcement. Under clause 51, an authorised person, defined in subsection (7) as

"a constable or…the relevant local authority",

as debated previously, can direct the individual to move on to prevent or stop the nuisance arising, and require them to take their belongings and litter with them. This move-on direction is limited to what is reasonable and proportionate to prevent or stop the nuisance, and is subject to a maximum time period of 72 hours. Only when the individual refuses to comply by failing to move on and stop the nuisance is an offence committed.

When someone is directed on, we would expect vulnerable people to be signposted to relevant support services. As I said previously, there was a debate in Government about whether we could give police or local authorities the power to require those people to take up support. However, it was considered that it would be unlawful—in particular, contrary to the European convention on human rights—to essentially compel people into support, which is why we were not able to include that in the legislation. Again, I hope that illustrates to the Committee and anyone listening that we want to see people who are sleeping rough supported. Very often, there are mental health, drug or alcohol problems that need to be addressed and treated. That is in the interests of the individual as well as society more widely. There is a lot of good practice already, and I can commit to the Committee now that the guidance supporting this legislation will set out the expectation that support is always offered.

The definition of nuisance rough sleeping is set out in clause 61. We will debate that in more detail in a few minutes. However, members of the Committee will notice that that definition is considerably narrower than the equivalent definition of nuisance begging, for reasons that will be obvious to everyone.

Jess Phillips: I feel differently about begging compared with nuisance rough sleeping. I have taken the words of my later mother on board. My brother lived on the streets for about six years in total, on and off, while he was in and out of various institutions. He used to annoy me. I did not like the trouble that he brought to my family's door. He was, without a shadow of a doubt, a nuisance. I remember my mum saying to me, "Would you swap places with him? You seem to want to rail against him. Do you want his life? Would you prefer to be sleeping outside, desperate for a fix of something because of traumas you have suffered? Would you want to swap places with him?" When I hear the view that people like my brother are merely a nuisance to businesses, all I have to say is, "Walk a mile in his shoes."

Do not get me wrong—my brother was not perfect. He was a nuisance to my family; indeed, he was much more than that. Having worked for years with homeless people—actual homeless people—I find that Ministers often try to mix up the definitions of "rough sleepers" and "homeless people". The issue of homelessness in our country is massive. For example, at any one moment there are at least 116 people in my constituency living in hotel accommodation. They are the kind of people who end up on the streets in the end, and we seem to mix up rough sleeping, rooflessness and homelessness quite badly.

In my years of working with both the roofless and the homeless, I have never met a person who would not move on. They might have been asleep. They might even have been off their faces and physically not capable of moving on when a copper, or even a shopkeeper, came up to them and said, "Look, mate, can you shove out the way?"

While waiting for a train at Leeds station after a music festival, I myself have slept in front of the WH Smith there. When they opened the barrier behind me and said, "Could you shift it?", I got up and shifted it. That is also my experience with homeless people. What I find frightening is the idea that we may go on to problematically criminalise them further, making their situation much more complicated. The Minister speaks with verve about the Government's commitment to tackle rough sleeping, but that is a triumph of hope over experience. If we go to any street in any city, or even town, we will see that rough sleeping is on the up. Anyone who has worked in this area will know of the ridiculous headcounts that are done but that do not account for the actual reality of homelessness. The figures are totally, completely and utterly fudged. They do not, for example, take account of women who are sofa-surfing because they are being sexually exploited by men. The data is total nonsense.

A single man on the housing waiting list in Birmingham has to wait a minimum of three years to get a property. They are put in terrible temporary accommodation, which the Government refuse to regulate, despite the fact that they are paying millions of pounds to landlords who are literally exploiting both the taxpayer and the homeless person. They will be off the street, but if people want to talk about them being picked up in luxury cars, they should knock themselves out by looking at some of the exempt accommodation, which the Government refuse repeatedly to regulate.

It is no wonder that Leonard in my constituency knocks on the door of my office week in, week out, asking for a sandwich, because he cannot bear to go back to the exempt accommodation that he shares with drug addicts. He is an elderly man, so he goes out and sits and begs again. Yes, the Government figures might say that he is off the streets, but let me say to all Members present that those people are in dangerous, unsafe accommodation.

Alex Norris: This part of the Bill, on nuisance rough sleeping provisions, is certainly the most contentious part, and probably the most interesting to the public as well. I rise to speak with a degree of sadness. I agreed with so much of the first half of the Minister's speech; the problem is that the first half, which set out the Government's intent, belief and policy, was not the right counterpart to the second half, which simply is not in service of those goals. We therefore oppose these measures and will, I am afraid, oppose every group of this debate.

The nuisance rough sleeping directions in clause 51 give an authorised person, which, according to subsection (7), is a police constable or someone from the local council, the power to move on a person if the rough sleeping condition, which we will debate at clause 61, has been or, indeed,

"is likely to be, met."

That is a significant phrase. Subsection (2) sets out what that will mean: that person will be moved on and not allowed to return to that area for 72 hours. Subsection (3) states that that person will have to pack up and take all their belongings and any litter with them. If they fail to comply, they will have committed an offence and may go to prison for a month or be subject to a £2,500 fine.

As I say, we oppose these provisions. I take the same view as my hon. Friend the Member for Birmingham, Yardley: I understand that nuisance rough sleeping is different from nuisance begging, which can have its roots in organised crime, but even where it is solely a venture by individuals, it can often be intimidating, disruptive and not fair on either businesses or individuals going about their daily lives. It is, of course, right for local authorities and the police to have some degree of power and control over nuisance begging, but rough sleeping is different. There is certainly no evidence that anyone is sleeping rough for profit. As a result, the Government's rationale for these provisions does not hit the mark.

The repeal of the Vagrancy Act 1824 was a landmark moment for campaigners, including many Members of this House who had worked towards it for a long time. The same people who were elated at that success are now rightly shocked that the Government are opting to pursue this path. We heard on Second Reading—although not from the Minister, I do not think—that it is contingent in law, and certainly in the Police, Crime, Sentencing and Courts Act 2022, that there must be some replacement for the Vagrancy Act lest those provisions cannot be ended. First, I am not sure that is true beyond a de minimis meeting of that legislation, and secondly, that is not a case for what is in this Bill. We have heard that there must be a change, but we do not hear why this change is necessary—why private property laws or health and safety laws cannot be used.

On Second Reading, a Member—possibly a member of this Committee, though I dare not mention the name in case I get it wrong—raised an instance of dangerous rough sleeping in their constituency, where a fire exit was being blocked. The Government cannot tell me that either there are not the right powers on the statute books or we could not have drawn narrow powers to meet that case. Under those circumstances, we would have supported them.

I have drawn significantly on the explanatory notes throughout the considerations of the Bill, and I think it is telling that the policy background element, which is detailed on everything else, essentially gives up on homelessness. I do not think there is a very strong case to be made for these provisions. We should not lose sight of the fact that rough sleeping is a symptom of other failures, particularly Government failures on housing, poverty and mental healthcare provision. I am not sure how criminalising those who then end up with the sharpest repercussions of those failures will in any way move us closer to resolving their individual circumstances or the collective ones.

Chris Philp: I did set out the Government's commitment to ending rough sleeping and the £2 billion being invested to achieve that objective. The shadow Minister is setting out why he does not agree with these provisions as drafted. He is, if I hear him correctly, implying that no replacement statutory provisions are needed at all. Does he accept that, if customers will not go into shop because a large number of people are camped or sleeping rough outside it, which happens in some areas, to the point that the business is being undermined, there should as a last resort be some hard-edged sanction to protect the business owner in those circumstances? The argument that he advances seems to suggest that there should be no protection at all for that business owner.

11.15 am

Alex Norris: No, the phrase I used was "de minimis". I believe that there could be some degree of power in that instance—which, I must say, I am not sure is that common, likely or foreseeable across the country. In those extreme circumstances a lower-level power could be set but that is not what we have in the Bill, which is much broader and risks drawing lots of vulnerable people into the criminal justice system. The idea that we could in some way meet the compulsions for a month in prison or, indeed, that those individuals could meet the £2,500 fine is rather for the birds.

We are likely to see something more like what the Minister said in the previous debate to my hon. Friend the Member for Birmingham, Yardley—some sort of common-sense application of the laws as they are, with people being moved on and getting a tap on the shoulder. Actually, how will we then have moved on from where we were? The point was not that the Vagrancy Act was not really being used, but that it really should not have been on the statute book and had to go. We are just going to replace it with a range of measures that, similarly, will not be used—or will be exceptionally damaging where they are used. I direct hon. Members to the joint briefing sent by Crisis, Shelter, St Mungo's, the YMCA, Centrepoint, the National Housing Federation and many more:

"enforcement is far more likely to physically displace people to less safe areas and prevent them from accessing vital services that support them to move away from the streets, entrenching the issue in a way that makes it harder to solve."

It goes on to say that that can

"push people into other riskier behaviour to secure an income such as shoplifting or street-based sex work."

It is a critical failure of the Bill that those who know of what we speak fear that those are the sorts of vulnerabilities that people will be pushed into.

Another point of difference between us and the Government—we will get on to this in clause 61—is that the definition is very broad. The Minister raised a specific case in a small set of circumstances, and the answer to that is a broad set of powers in a broad range of circumstances. That seems unwise, particularly as the issue is not even about sleeping rough; it is about the act of "intending to sleep rough". All sorts of consequences flow from that definition, which we will talk about in clause 61. However, we have heard concerns from the Salvation Army about feeding existing prejudices about those who sleep rough.

Ultimately, the most vulnerable and destitute need support into suitable accommodation, not criminalisation. Clause 51 and the associated clauses will only exacerbate the problems that they face; it may offer a bit of short-term respite for the community, but in reality it will cause greater issues and solve none of the underlying causes. As my hon. Friend the Member for Birmingham, Yardley said, the clause is a triumph of hope over experience. For that reason, we cannot support it and will vote against its inclusion in the Bill.

Chris Philp: I will briefly respond by making two or three points. The first is that I hope the shadow Minister and others will acknowledge that the clause represents a dramatic reduction in the scope of the criminalisation of rough sleeping compared with the Act currently on the statute book, which is in force as we speak. It dramatically reduces the scope of people who will be caught by the provisions. The hon. Gentleman did not acknowledge that in his speech, but I hope that perhaps later in the debate he will acknowledge that the Bill dramatically shrinks the range of people caught by the provisions.

I made my second point in my intervention. The hon. Gentleman proposes voting against the clause, but he has not proposed any alternatives to it. He has not put down any amendments, and when I pushed him on what he thought should be done to protect shopkeepers, for example, he did not really have any clear answer.

Alex Cunningham: Will the Minister give way?

Jess Phillips: Will the Minister give way?

Chris Philp: I will in a second. The Opposition are not proposing any constructive alternative to protect shopkeepers, for example. Both sides agree that the first step should always be support, that we need to end homelessness by tackling its causes and that, first of all, we need to support people to get off the streets and into accommodation. We should address underlying causes such as mental health issues, drug issues and alcohol issues. We agree on all that. However, if those interventions do not work, we need to make sure that there is some residual power as a backstop or last resort when a business premises or high street gets to the point of being adversely affected. That is what we are proposing here.

Some other jurisdictions—some American cities such as San Francisco, for example—have either ceased to apply rules like these or have completely abolished them. That has led to a proliferation of people sleeping in public places and has really undermined entire city centres. I understand the points that the Opposition are making, but we need something that will act as a backstop to protect communities and high streets. We have tried to construct the clause in a way that gets the balance right, and we will debate the details when we come to clause 61.

I will make a final point about moving people on before I give way to interventions and conclude. The hon. Member for Birmingham, Yardley said that, often, if police or local authorities—she gave the example of people running a train station—ask people to move on, those people tend to comply. That is because of the sanctions in the 1824 Act. If we completely repeal that without there being anything to replace it—that is what the Opposition essentially seem to be suggesting—and an officer goes up to someone and says, "Would you mind moving on, please?" then that person could just say, "No, I don't fancy moving on". There would be no power to do anything. The officer, the person running the train station or the shopkeeper would have to say, "Look, I am asking you nicely: can you please move on?" If the person in question said, "No," then nothing could be done at all.

The shadow Minister mentioned trespassing legislation, but the streets are public and that legislation applies to private property. It does not apply to a pavement. It would not apply outside a train station—maybe it would apply inside; I am not sure. I am just saying that, if the statute book were to be totally excised and someone was asked to please move on, there would be no ability to ensure that that happened. I accept that a balance needs to be struck, and we have tried to do that through a definition in clause 61, which we will debate.

I posed questions back to the Opposition, but, with respect, I do not think I heard the answers in the Opposition's speech. I am sure that we will continue to debate the issue after lunch, particularly when we come to clause 61. We will no doubt get into the detail a bit more then. I had promised to give way to the hon. Member for Stockton North.

Alex Cunningham: I am grateful to the Minister for giving way. I did not know that the days of empire had returned and that we needed to consider ruling in San Francisco.

Chris Philp: I was using that as an example.

Alex Cunningham: I get complaints about aggressive begging and nuisance begging. Never in my life as a local councillor or a Member of Parliament have I had a property owner approach me to say, "I've got a real problem with this guy sleeping outside my shop every night". I have never had that, and nobody else has told me that they have. The Minister thinks it a tremendous problem—that property owners are very worried and angry and that they want these people moved on. That idea is very new to me. The Minister needs to justify these measures more.

Chris Philp: I have a great deal of respect and affection for the hon. Gentleman; he knows that, having spent so many hours with me in Committee. With respect, the question to ask is not about the current situation—although there are examples; I will show him photographs after the meeting of tents on Tottenham Court Road that retailers do not particularly appreciate. The question to

[Chris Philp]

ask is about what would happen in the future as a consequence of a total repeal. That is the question that needs to be answered.

Jess Phillips: Will the hon. Gentleman give way?

Chris Philp: We are about to hit the time limit, so maybe we can discuss further when we debate the other clauses.

The question is: what would happen if we were to repeal? To see what would happen as a result of what the Opposition propose, let us look at other cities around the world; I am not doing that because I have imperial designs, but as a case study. Other places such as San Francisco have done it, and the results have been terrible. That is why I am a bit wary of doing what the Opposition propose.

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

The Committee divided: Ayes 9, Noes 5.

Division No. 5]

AYES

Drummond, Mrs Flick
Farris, Laura
Firth, Anna
Ford, rh Vicky
Garnier, Mark
Jones, Andrew
Mann, Scott
Metcalfe, Stephen
Philp, rh Chris

NOES

Cunningham, Alex
Dowd, Peter
Harris, Carolyn
Norris, Alex
Phillips, Jess

Question accordingly agreed to.

Clause 51 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Scott Mann.)*

11.25 am

Adjourned till this day at Three o'clock.