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Public Bill Committee

CRIMINAL JUSTICE BILL

Sixteenth Sitting

Tuesday 30 January 2024

(Afternoon)

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Saturday 3 February 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 30 January 2024

(Afternoon)

[Sir Graham Brady *in the Chair*]

Criminal Justice Bill

New Clause 19

Use of another person's dwelling place for criminal purposes: cuckooing

"(1) A person 'P' commits an offence if—

(a) P makes regular use of or takes up residence in a residential building lawfully occupied by another person 'R',

(b) P uses the residential building as a base for criminal activities including but not limited to—

(i) dealing, storing or taking unlawfully held controlled drugs,

(ii) facilitating sex work,

(iii) taking up residence without a lawful agreement with R in circumstances where R is under duress or otherwise being coerced or controlled, or

(iv) financially abusing R.

(2) For the purposes of this section—

(a) 'building' includes any structure or part of a structure (including a temporary or moveable structure), and

(b) a building is 'residential' if it is designed or adapted, before the time of entry, for use as a place to live.

(3) A person who commits an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both)."—*(Alex Cunningham.)*

This new clause would make cuckooing an offence. Cuckooing is where the home of a vulnerable person is taken over by a criminal in order to use it to deal, store or take drugs, facilitate sex work, as a place for them to live, or to financially abuse the occupier.

Brought up, read the First time, and Question proposed (this day), That the clause be read a Second time.

2 pm

Question again proposed.

The Minister for Crime, Policing and Fire (Chris Philp): It is a pleasure to serve under your chairmanship once again, Sir Graham, at the start of what is the final session of the 16, including the evidence sessions, that we have had on this Bill. I am sure that if there is popular demand, we can agree to have some more—*[Laughter.]* No, I did not think that that would be terribly popular.

We were in the middle of discussing new clause 19, moved by the shadow Minister, the hon. Member for Stockton North (Alex Cunningham), on a new criminal offence of cuckooing. As we ran out of time, I was saying that the way in which the new clause is drafted does not require there to have been duress, coercion or consent. The shadow Minister intervened to draw attention to subsection (1)(b)(iii), which requires duress or coercion, but the other limbs of the test do not require duress or coercion and the clause is worded as an "or". That is to say, if any one of limbs one to four are engaged, the offence is made out. For example, if limb one alone is engaged—if there is drug dealing at the premises—the offence is made out even if there is no coercion, because the test is structured as an "or" rather than an "and", and any one of the four limbs may apply.

The way the new clause has been drafted means that, even where there is no coercion or duress and even where consent has been freely given by the person living in the residential building, the offence would none the less have been committed. That is not exactly the definition of cuckooing that we would ordinarily recognise, which would involve duress and/or coercion of a typically vulnerable person. For that drafting reason, we could not support the new clause.

There are a number of elements of existing criminal law that provide protection here or that are relevant. For example, sections 44 to 46 of the Serious Crime Act 2007 create various so-called inchoate offences, such as encouraging or assisting the commission of offences, which would likely be engaged here and the maximum penalty for which is the same as the primary offence. Even if the person doing the cuckooing is not committing the offence but is organising or encouraging others, including the vulnerable person, to do so, an offence is committed.

If a criminal offence such as drug dealing is being committed, that is illegal. Under the Misuse of Drugs Act 1971, the production or supply of controlled drugs is an offence, so if somebody were occupying another person's flat or house for the purpose of drug dealing, they would be committing an offence under that Act. Similarly, if they were trying to compel the victim—that is, the vulnerable person—to do something they did not want to do, it is quite likely that sections 1 or 2 of the Modern Slavery Act 2015 would be engaged as well.

Another offence that would likely or could be engaged is that of aggravated trespass, under section 68 of the Criminal Justice and Public Order Act 1994. That section rather confusingly refers to "land", but the definition of land in that context includes buildings. The offence there is where the person trespassing on land, which definitionally includes buildings, has the intention of "intimidating", "obstructing" or "disrupting" the lawful activity of others, which will include the right to quiet enjoyment of their premises. Critically, the word "intimidating" is included in that aggravated trespass offence. Clearly, if somebody were coercively cuckooing a vulnerable person, it would be very likely—indeed, near certain—that they would be intimidating them. Not only would we be able to prosecute them for the primary offence, such as drug dealing, but possibly for aggravated trespass under section 68.

Alex Cunningham (Stockton North) (Lab): The Minister has used three expressions in the last few minutes: "quite likely", referring to the Modern Slavery Act, "likely", and then—sorry, I have lost the third one. My apologies, Sir Graham. I trained as a journalist, but sometimes I cannot read my shorthand. The Minister has three times used the word "likely", but "likely" is not good enough. Possibly, maybe, perhaps—all these words mean the same thing. They do not mean certainty, and I hope that he will recognise that what we are trying to do is to get a specific clause to deal with cuckooing. I will speak further on that when I respond to the Minister's speech.

Chris Philp: What is certain is that under the new clause, as drafted, a criminal offence of cuckooing could be committed even where there is no coercion and consent is freely given. I will be interested to hear the hon. Member's response to that, if he plans to speak. On my other points, if a criminal offence occurs at a premises because they are being used as a base for criminal activities, it is not likely but certain that that criminal offence will be prosecuted. That is a certainty. If a criminal offence has been committed, that can obviously be prosecuted as a matter of certainty.

Jess Phillips (Birmingham, Yardley) (Lab): On the Minister's point about the trespass offence, does he think that in such circumstances a person would get anywhere near the sentence that they would for taking over a vulnerable person's home and coercing them? Is that an appropriate response? Secondly, what has made the Government change their mind after they committed to making cuckooing an offence, which Conservative Members and I have pushed for for some time? Now the Government are saying, "Don't worry. It's absolutely fine."

Chris Philp: The antisocial behaviour plan, published in the spring of last year, committed to engaging with stakeholders on that question. That engagement has happened and continues to happen. On the point about penalties, if someone is occupying someone else's house and is dealing, for example, class A drugs, the maximum penalty, wherever that happens, is life. Under the Modern Slavery Act, the maximum sentence under sections 1 and 2 for making another person a victim of modern slavery is life imprisonment. The penalties available are severe. In the two examples that I just gave, the maximum sentence is life imprisonment.

The maximum penalty for participating in the activities of an organised crime group under section 45 of the Serious Crime Act 2015 is five years. On the inchoate offences under sections 45 or 46—that is, where someone is incited or encouraged to commit an offence—the maximum penalty is the same as that for the primary offence. So, it is not true that the maximum sentences available in this sphere are in any way light or inconsequential.

This matter obviously concerns everybody. It is as much a matter of enforcement as anything else because, as I have explained, we have a number of different laws on the statute books that cover such behaviour with significant penalties attached. The question is how we make sure that they are properly enforced. As drafted, the new clause probably does not have quite the intended effect, because it is widely drafted. Even if it were drafted to include a requirement for duress or coercion or that consent had been withheld, we could legitimately debate whether it does or does not fill a lacuna.

In addition to the criminal sanctions that I have just enumerated, there are a very large number of civil orders available to try to prevent a property being misused. I will not go through the detail of them all because that will take too long, but I will list what they are. They include closure notices, community protection notices, public space protection orders, civil injunctions under part 1 of the Anti-social Behaviour, Crime and Policing Act 2014, criminal behaviour orders, gang injunctions, a section 8 notice under the Housing Act, and slavery and trafficking risk orders. Those are civil measures, but they are in addition to the various criminal measures that I enumerated.

In conclusion, the Government accept the spirit of the concern that has been raised. Cuckooing is a concern; it happens, and it needs to be stopped. It is worth saying that we have closed down a very large number of county lines over the last four years—I think about 3,000. Enforcement action is happening. There is scope to go further, but numerous existing criminal offences give the police the powers they need. We need, collectively, to make sure that the police always exercise those powers where cuckooing occurs.

Alex Cunningham: I have listened to the Minister in some detail. Nobody will ever accuse him of not being prepared with stats and with the information at his fingertips.

As my hon. Friend the Member for Birmingham, Yardley said, for a vulnerable person who is a victim of this sort of offence, civil orders occupy a no-go place. That person would not have the understanding or the wherewithal to pursue such an order and, if the authorities cannot intervene because the law is not sufficient, they cannot do so on that person's behalf either. I do not accept that civil orders in any shape or form help to address this particular problem.

Chris Philp: I would point primarily to the criminal offences I enumerated, but, on the question of civil orders, other agencies such as local authorities, or in some cases the police, could of course apply for the civil order. Obviously, we would not expect the vulnerable person to apply for the civil order themselves, but there are agencies, which include local authorities, that could certainly do so on their behalf.

Alex Cunningham: I am grateful to the Minister for providing clarification on that. As he heard me say earlier, we are looking at the new clause very much as creating a specific offence of cuckooing. I recognise the lesson in drafting that he has given me this afternoon.

It had been my intention to push the new clause to a vote but, after the lesson in drafting from the Minister, I no longer intend to do so. The Minister is aware, however, that there is considerable cross-party support for this aim. The Minister says that he has a problem with the drafting of the clause, but he does not appear to have a problem with its purpose, so on that basis I ask that he work with others—some from his own side, although we are happy to pitch in as well—to bring forward what we believe is needed: a specific clause on cuckooing that will once and for all protect the victims, rather than giving free rein to those who choose to exploit them. On that basis, in the hope that we will see something come back later, I beg to ask leave to withdraw the motion.

Motion, by leave, withdrawn.

New Clause 23

SEXUAL EXPLOITATION OF AN ADULT

"(1) The Sexual Offences Act 2003 is amended as follows.

(2) Section 52 is amended as follows—

(a) in the title for 'Causing or inciting prostitution' substitute 'Sexual exploitation', and

(b) in paragraph (1)(a) for 'causes or incites another person to become a prostitute' substitute 'sexually exploits another person'.

(3) Section 53 is amended as follows—

(a) in the title for 'prostitution' substitute 'sexual exploitation', and

(b) in paragraph (1)(a) for 'prostitution' substitute 'sexual exploitation'.

(4) Section 54 is amended as follows—

(a) in subsection (2) for 'sections 51A, 52, 53 and 53A' substitute 'section 53A', and

(b) at end insert—

'(4) In sections 52 and 53 "sexual exploitation" means conduct by which a person manipulates, deceives, coerces or controls another person to undertake sexual activity.'." —*(Jess Phillips.)*

This new clause is an amendment to the Sexual Offences Act 2003, specifically in Sections 52 and 53, "replacing prostitution for gain" with "sexual exploitation of an adult".

Brought up, and read the First time.

Jess Phillips: I beg to move, That the clause be read a Second time.

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

New clause 26—*Loitering and soliciting: repeal*—

"Section 1 of the Street Offences Act 1959 (loitering or soliciting for purposes of prostitution) is repealed."

This new clause repeals soliciting and loitering as an offence.

New clause 30—*Power of Secretary of State to disregard convictions or cautions: Loitering or soliciting for purposes of prostitution*—

"(1) Section 92 of the Street Offences Act 1959 is amended as follows.

(2) For subsection (1) substitute—

'(1) A person who has been convicted of, or cautioned for, an offence in circumstances where—

(a) the conduct constituting the offence was sexual activity between persons of the same sex, or

(b) the offence was committed under section 1 of the Street Offences Act 1959, may apply to the Secretary of State for the conviction or caution to become a disregarded conviction or caution.'

(3) In subsection (2) after first 'caution' insert 'received in the circumstances set out in subsection (1)(a)'."

A new clause that allows a process allowing the Secretary of State to disregard convictions and cautions received under section 1 of the Street Offences Act 1959.

New clause 44—*Offence of enabling or profiting from prostitution*—

"(1) A person or body corporate (C) commits an offence if they—

(a) facilitate, whether online or offline, or

(b) gain financially from

a person (A) engaging in sexual activity with another person (B) in exchange for payment or other benefit, or the promise of payment or other benefit, and the conditions in subsection (2) are met.

(2) The conditions are—

(a) that C knows or ought to know that A is engaging in, or intends to engage in, sexual activity for payment or other benefit; and

(b) that C is not a dependent child of A.

(3) For the purposes of this section—

(a) 'Sexual activity'—

(i) means any acts which a reasonable person would, in all the circumstances but regardless of any person's purpose, consider to be sexual,

(ii) requires A and B to be in each other's presence,

(b) 'Facilitates' includes, but is not limited to, causing or allowing to be displayed or published, including digitally, any advertisement in respect of sexual activity involving A.

(4) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 10 years."

This new cause would make it an offence to facilitate or profit from the prostitution of another person.

Jess Phillips: The new clause seeks to replace the term "Controlling prostitution for gain" with

"sexual exploitation of an adult"

and to provide a definition of "adult sexual exploitation" through the Sexual Offences Act 2003, as one does not currently exist.

In 2015, a significant change was made through the Serious Crime Act 2015 whereby "controlling a child prostitute" or a "child involved in pornography" was replaced with

"sexual exploitation of a child".

That led to a shift in perceptions—we would never use the term "child prostitute" now, but we definitely did when I was first working in this field—so that child victims of exploitation were exactly that: victims. It also allowed for the improvement of service provision and available support. It is not perfect by any stretch of the imagination, but it is better. Children who were once labelled as prostitutes or as having made poor lifestyle choices are now quite rightly recognised as children who have been groomed.

Unfortunately, no such change has occurred for adult victims of sexual exploitation. Once an individual reaches the age of 18, there is often a sudden change in the perception of their experiences by professionals and services—actually, the problem often occurs once an individual reaches the age of 16, as that is the age of consent. Victims of adult sexual exploitation are falsely identified as consensually engaging in sex work, and the labelling of that abuse as "prostitution" in law only serves to perpetuate it. That mislabelling has led to countless people across the UK falling through the gaps and not receiving necessary support as their experiences are not recognised.

2.15 pm

Adult sexual exploitation is a form of sexual abuse that is poorly understood and rarely recognised across many sectors. Sexual exploitation occurs when an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a person into sexual activity. That activity is often done in exchange for something the victim needs or wants, and disproportionately benefits the perpetrator. In some cases the perpetrator will be instrumental in creating the need, thus making the victim dependent on them.

I should declare that I am chair of STAGE, a partnership on adult sexual exploitation. That group of charities supports women who have been groomed for sexual exploitation across the north-east and Yorkshire. One STAGE case study particularly highlights the sudden change in the perception of sexual exploitation once an individual reaches adulthood; I have changed the name of the woman involved for her anonymity.

Mina was 15 when she was introduced to her perpetrator. He began to groom Mina, supplying her with alcohol and drugs, and she developed a dependency on alcohol.

He used fear and the shame of that dependency as a form of control to ensure that she did not speak out about the abuse she was subject to. Between the ages of 15 and 18, Mina was seen by professionals and services as a victim of child sexual exploitation and they did all they could to safeguard her. At 18, the exploitation was continuing, but when she moved into adult services the police and adult social care questioned whether Mina was just making unwise choices and whether she was getting something out of those exchanges. In March 2023, Mina had a missing episode and was located following a sexual assault. However, the responding officer informed Mina's STAGE support worker that her experience could not have been sexual exploitation because she is over the age of 18.

The lack of a legal definition and the continued labelling of the sexual exploitation of adults as "controlling prostitution for gain" has led to the continued abuse of countless women like Mina, and a lack of response from safeguarding agencies; new clause 23 would play a vital role in changing that. I dealt with a case literally this morning involving the desperate mother of a 22-year-old woman who is being sexually exploited for drugs. Nobody will listen to the mother, and social services have referred to her daughter as a prostitute.

New clause 26 would decriminalise the offence of loitering or soliciting for the purposes of prostitution by repealing section 1 of the Street Offences Act 1959. Tens of thousands of sex-trade survivors who are convicted of that offence endure violence and abuse from punters and pimps. While the victims are criminalised for offences arising from their exploitation, the exploiters and abusers remain at liberty to continue offending. Some of the women were children at the time they were first exploited and convicted. Many were groomed as children but only convicted as adults—often under the continuing control of their pimps and traffickers.

Fiona Broadfoot was just 15 when she was first exploited into prostitution by a man posing as her boyfriend who became her pimp. As well as sexually abusing her himself, he made Fiona sell sex on the streets, where she often feared for her life. She finally escaped him when she was picked up by another pimp, who, along with his father, continued to pimp her on the streets and in brothels, where she was repeatedly raped. She suffered violence and abuse from her pimps and punters, and was regularly arrested by the police while they exchanged friendly greetings with her pimp. As a consequence of her history, which dates back to the 1980s, Fiona has 39 convictions for soliciting and loitering that will remain on her record for life—despite having exited prostitution more than 30 years ago. She is one of thousands of women who have lived through this experience.

Times have changed. Those involved in street prostitution are now widely understood to be victims and are usually no longer arrested. In 1989, more than 15,739 women were cautioned or convicted for soliciting for prostitution; by March 2021, police recorded only 302 cases of that offence. The changing nature of prostitution from street-based to online, combined with police guidance on seeing those prostituted as victims, means that only those deemed persistent and troublesome are now arrested.

The UK's approach to the offence is not replicated in major Council of Europe states. In those countries prostitution has been fully decriminalised, or a sex buyer model has been adopted that decriminalises only those exploited, and not those who profit from prostitution. The existing legislation fails to comply with international human rights obligations to women exploited in prostitution, including the Istanbul convention and the provisions on trafficking and modern slavery in the convention on the elimination of all forms of discrimination against women. The new clause would provide the necessary recognition that women convicted of this offence are not criminals.

New clause 30 would provide a mechanism for convictions and cautions received for the offence of loitering or soliciting for the purposes of prostitution to be disregarded. Criminal records for this offence are currently retained until the survivor reaches the age of 100. This means that women who are convicted continue to be disadvantaged by the mandatory retention of these records, which are a result of being historically subjected to violence and exploitation by pimps and traffickers.

Before 2003, the offence was discriminatory on the basis of sex, such that only women could be convicted. Even after the offence was made sex-neutral, women continued to be disproportionately affected. The policy of retention of criminal records therefore continues to have a hugely disproportionate and discriminatory impact on women. Just as the post office workers have had their convictions cleared, these women deserve to move on with their lives. The new clause presents an opportunity to address this ongoing miscarriage of justice.

Carolyn Harris (Swansea East) (Lab): I rise to speak to new clause 44, which enacts a recommendation of the Home Affairs Committee, which I am a member of, and is supported by its Chair, my right hon. Friend the Member for Kingston upon Hull North (Dame Diana Johnson). The clause is very simple. It outlaws pimping, and we need it to combat sex trafficking.

Members might be surprised to learn that some forms of pimping are still legal in this country. Take pimping websites, which the Home Affairs Committee looked at during our inquiry on human trafficking. These websites are dedicated solely or partly to advertising people for prostitution. The operators of the sites knowingly pimp people for prostitution, and the biggest sites make millions of pounds from it. Despite it being illegal to place a prostitution advert in a phone box, our laws are failing to keep up with technological change; that same advert can be hosted on a website with complete impunity. As a result, pimping websites make it as easy to order a woman to sexually exploit as it is to order a takeaway. This has been a total boon for sex traffickers.

The Home Affairs Committee concluded:

"Websites advertising prostitution significantly facilitate trafficking for sexual exploitation."

The websites make it quick and easy for traffickers to advertise their victims and connect with their customers nationwide. As a result, pimping websites are now a core component of the standard business model of sex trafficking in the UK. Shockingly, one of these websites admitted to the Home Affairs Committee that it allows single individuals to advertise multiple women for prostitution at the same time on its site and allows the same contact phone number to be used across multiple different adverts. These are both obvious red flags for sex trafficking.

[Carolyn Harris]

We also know that one trafficker convicted of sexually exploiting women in the UK spent an astonishing £25,000 advertising his gang's victims on the same pimping website. The group exploited at least 11 young Romanian women, trafficking them from across the north-west of England and Northern Ireland. Chillingly, law enforcement revealed that the website operators responded to the fact that one man was spending thousands of pounds advertising women for prostitution not by calling the police but by allocating him his own account manager to make sure he could spend more. It is an absolute scandal that these pimping websites have been allowed to operate in plain sight. To combat trafficking in this country, we must update our laws so that it is illegal to pimp online as well as offline.

New clause 44 would enact the recommendation of the cross-party Home Affairs Committee to make it a criminal offence to facilitate or profit from the prostitution of another person online or offline. I hope we can come together across the House to make that recommendation law.

Alex Cunningham: I pay tribute to the work of my hon. Friends the Members for Swansea East and for Birmingham, Yardley, and of others who do so much to advance women's rights through their work in and out of this House. That is, of course, across parties.

My hon. Friend the Member for Birmingham, Yardley mentioned her work with the STAGE project. One of the members of that group is A Way Out, a fantastic charity based in Stockton with which I am very familiar. It does hugely important work supporting vulnerable and excluded women, families and young people to live lives free from harm, abuse and exploitation. I know that many of us on this Committee have civil society groups and charities in or near our constituencies that dedicate themselves to tackling abuse and exploitation in our communities, and I am sure that we would all like to put our thanks to them on the record this afternoon.

As my hon. Friend has just outlined, new clause 23 replaces the term "controlling prostitution for gain" in the Sexual Offences Act 2003 with

"sexual exploitation of an adult".

That would follow more closely the terminology introduced into English law in 2015 in relation to the sexual exploitation of children, which my hon. Friend has outlined in detail. The new clause may help to address some of the cliff-edge differences in treatment that those subject to such exploitation experience when they turn 18.

I am sure that the Minister recognises the need for continuity of support for those subject to or at risk of exploitation, and agrees that simply turning 18 should not provide a reason for changing perceptions of and treatment for victims of sexual exploitation. Is the Minister aware of any discussions in the Department, following the changing of the terminology around sexual exploitation of children, about the way that the law refers to such exploitation when perpetrated against adults? If so, could she share them with the Committee?

New clause 23 also aims to provide a definition of adult sexual exploitation through the Sexual Offences Act 2003. The STAGE project's access-to-justice work has identified that women who have experienced sexual exploitation can face barriers to accessing justice at all points in the criminal justice system. One of the contributing factors to the barriers that many victims face when accessing justice is that some may not even initially recognise that they have experienced sexual exploitation —partly on account of the fact that there is no statutory definition of adult sexual exploitation.

I look forward to hearing the Minister's thoughts about the potential benefits of introducing a statutory definition in relation to this type of offending. That may be of help not only to victims, in understanding their experiences as adult sexual exploitation, but to criminal justice professionals, such as the police, in identifying cases of this horrific offending.

I turn briefly to new clauses 26 and 30, which would respectively repeal soliciting and loitering as an offence and provide for a process allowing the Secretary of State to disregard convictions and cautions related to soliciting. As my hon. Friend the Member for Birmingham, Yardley has outlined, this offence has been disproportionately used to criminalise vulnerable and exploited women, after which the offence stays on their criminal record for decades—I think I heard my hon. Friend say "up to the age of 100", but I do not know how many people get to 100.

The retention of those records can be distressing and degrading, and can interfere with the ability of the women to move on with their lives. It can prevent them from getting access to certain jobs and may make accessing certain types of support more difficult. Even when the women are trying to move forward with their lives, they are confronted by yet more challenges because they have been criminalised, while many of those actually perpetrating such exploitation have not.

The Centre for Women's Justice has been challenging this regime in the courts in recent years through its HOPE—history of prostitution expunged—campaign, with some notable successes. One of the women involved in the campaign, whose name has been changed to Martha to maintain anonymity, said:

"I have a sheer panic when I see a job and then see 'DBS required'. I feel the reaction I experience is a form of trauma—anxiety, anger and rage. I also feel disgust that people are so judgmental when to me the perpetrator, who experiences none of this, is the one who should feel shame".

Clearly, more needs to be done to ensure that criminal records do not compound trauma for these victims and prevent these women from moving forward with their lives.

The Government have made some reforms to criminal records recently, most notably in the Police Crime Sentencing and Courts Act 2022, which was being debated in Parliament around the same time as one of the Centre for Women's Justice cases was being heard. The Government were not minded to expand the provision of criminal record reform further at that time. Can the Minister tell me whether anything has changed in the interim? Has the Department considered any other mechanisms through which the impact that criminal record disclosure can have on those women may be reduced?

Finally, on new clause 44, which creates a new offence of facilitating or profiting from the prostitution of another person, will the Minister share her views on measures to combat such exploitation? Overall, I hope we can have an update on the work of the Government to ensure that exploitation offences criminalise the exploiters rather than those being exploited.

2.30 pm

The Parliamentary Under-Secretary of State for Justice (Laura Farris): The Opposition Members are all correct: how the Government approach prostitution, and the way society views it, has changed and developed significantly in the last decades. Our policy towards sex work and prostitution is now much more focused on the harm associated with it and appropriately supporting people who wish to exit that industry. We are sympathetic to the new clauses and are considering them carefully.

The acts of buying and selling sex are not illegal in England and Wales, but many of the associated offences are: controlling prostitution and the kinds of offences that present a public nuisance, for example. New clause 23 amends the wordings of sections 52 and 53 of the Sexual Offences Act, which concern, respectively, the offences of causing or inciting another person to become a prostitute and controlling prostitution for gain. New clause 23 seeks to make more real the nature of the offence, which is to sexually exploit. The section 52 offence is designed to punish individuals who coerce others into sexual activity from which they or a third party profits. The section 53 offence punishes offenders who coerce or force others into sexual activity from which they or a third party profit. As a matter of law, the Government consider those offences fit for purpose. They enable the police to take enforcement action against the range of relevant offending that arises from an individual controlling the behaviour of an intimate partner or an organised criminal gang trafficking victims internationally. But wherever it sits on that spectrum, all such conduct is inherently exploitative.

The National Police Chiefs' Council's sex work guidance was updated in June 2003. At its core are five principles that recognise the complexity of the sex industry and the risks that sex workers face, and emphasise the imperatives to build mutual trust to improve sex workers' safety and tackle exploitation by taking enforcement action against criminal exploiters.

Carolyn Harris: As someone who has done a lot of work on this, and as I am sure my hon. Friend the Member for Birmingham, Yardley would agree, the terms "sex work" and "industry" are extremely offensive. We are talking about victims of prostitution, and this is not an industry—it is an exploitative environment.

Laura Farris: I am happy to take that correction—sorry, I was just speaking informally when I should not have been.

On new clauses 26 and 30, section 1 of the Street Offences Act 1959 enables the police to divert individuals engaged in on-street sex work to alternative interventions. I will reference some of the points made by the hon. Member for Birmingham, Yardley, because we did some research into what is happening. First, the National Police Chiefs' Council's guidance, which advises officers, makes clear that it will not be commonplace to prosecute individuals who sell sex in public, and that every effort should be made to refer them to partner agencies and seek a diversionary route where possible. I have looked at the most recent data, which I will share with the Committee. In the year to March 2023, 301 soliciting crimes were recorded, of which 32—around 10%—resulted in either a charge or a summons. Of those that were charged, there has been on average less than one conviction a year from 2010 until today.

The hon. Member for Birmingham, Yardley also raised the issue of criminal convictions staying on people's records. If someone is trying to exit enforced prostitution and rebuild their life, that is profoundly unhelpful—I agree with her without reservation. She will be aware of the announcement that spent convictions are now being removed from criminal records; that was in the Police, Crime, Sentencing and Courts Act, but has been reinforced by the Lord Chancellor a number of times. I have already said that I will write to her about something, but I will just update her on that. We are working to try to get criminal records off people's profiles, so that they can move on with their lives. That applies for all offences, because we think it is important that rehabilitation should have a serious meaning, whatever the offence.

Where we have this offence at the moment, we are principally seeing the police using it as a tool for diversion—that can be interpreted in a number of ways, but that is what we are principally seeing. The police have a challenging role, balancing the need to safeguard vulnerable on-street women who are selling sex from the harm they face, with the need to protect neighbourhoods from the negative consequences of that type of activity. Obviously, other crimes can often be concomitant to prostitution, particularly on the part of the people who control the women. There is also the issue of children being able to witness stuff like that. The police have to strike a balance there. Careful consideration of the law in this area is warranted, even when such considerations are placed in the balance. At the moment, the law in this area gives the police the flexibility to balance the different priorities, but we are thinking hard.

New clause 44 was tabled by the hon. Member for Swansea East, who raised interesting points that intersect with modern slavery. She made an interesting observation about something that I have seen in some of my other work, about where numbers all link to one person, or whether the same number is being duplicated across different sites. That goes right to the heart of modern slavery, and is a pressing issue for the Home Office.

I want to flag to the hon. Lady one of the difficulties that cuts across her new clause. It would effectively put an end to online services where individuals selling sex advertise lawfully. The research that the Home Office commissioned from Bristol University, which we published in 2019, showed that some people prefer to use technology to advertise because they feel safer doing so. The Government's priority is to keep people engaged in this kind of work safe from harm, so we have to tread a difficult balance. We do not want to do something antithetical to protecting people from harm, which might happen if individuals selling sex were deprived of using technology and somehow diverted on to the street, forced underground or forced into an inherently more dangerous practice. It is reasonable for us to consider all the outcomes that could result, although I am not disagreeing with the force of the hon. Lady's argument.

The Online Safety Act 2023, which is going through various stages of commencement now, should ensure that online platforms for individuals advertising are responsible and accountable for the content on their sites. They are required in law to take proactive steps to prevent those sites from being used by criminals. The commencement of the Online Safety Act is happening currently, so it is difficult to give an assessment, but all of this was covered in it. That includes a requirement

[Laura Farris]

for sites to proactively identify and remove content that is linked to priority offences, including controlling and inciting prostitution for gain, and human trafficking and modern slavery. As I have said, this cuts across these issues. With all due respect to the arguments advanced, I invite hon. Members not to press their new clauses.

Jess Phillips: I would welcome any intervention from the Minister. We would never write the phrase "child prostitute" into a document, so we should be really mindful of why on earth we allow that to continue with adults. We would call it exploitation; we call it the crime that it is.

Paying anybody for sex, even if completely legitimately —let's face it, this mainly involves women—is fundamentally not a consensual act. None of us would choose it, would we? Would anybody here choose to have sex for money? We do not have to choose it from within a framework that means we will never have to. Would any of us choose it for our daughters? Would any of us be happy for our daughters to be on OnlyFans, selling it legally? I do not have any daughters, but I would certainly have a problem with my sons purchasing it.

The idea that this is a choice-based environment always gets used as a reason for not making progress on the issue. My concern is that there is no definition of adult sexual exploitation on a statutory footing, as my hon. Friend the Member for Stockton North has pointed out. Perhaps I would withdraw the motion on the basis that the Government go away and include the idea of adult sexual exploitation in the Bill, or even in the Victims Bill as it goes through. Why on earth do we not have a definition of adult sexual exploitation, as if the adults who do these things choose to do them, even though we have recognised that none of us would?

I beg to ask leave to withdraw the motion.

Motion, by leave, withdrawn.

New Clause 24

HUMAN TRAFFICKING

(1) Section 2 of the Modern Slavery Act 2015 is amended as follows.

(2) In subsection (1) for 'arranges or facilitates the travel of' substitute 'recruits, transports, transfers, harbours or receives through force, fraud or deception'.

(3) In subsection (2) for 'travel' substitute 'the matters mentioned in subsection (1)'.

(4) Omit subsections (3) to (5).

(5) In paragraph (6)(a) for 'arranging or facilitating takes' substitute 'matters mentioned in subsection (1) take'.

(6) Omit paragraph (6)(b).

(7) In paragraph (7)(a) for 'arranging or facilitating takes' substitute 'matters mentioned in subsection (1) take'.

(8) In paragraph (7)(b) for the first 'the' substitute 'any'.—*(Jess Phillips.)*

This new clause brings the definition of human trafficking in the Modern Slavery Act 2015 in line with the UN definition, particularly removing the requirement for exploitation to have involved travel.

Brought up, and read the First time.

Jess Phillips: I beg to move, That the clause be read a Second time.

The new clause seeks to align our definition of "human trafficking" with the UN definition, particularly removing the requirement for exploitation to have involved travel. We have heard all about cuckooing today. You could be in your house for this; you might not have travelled anywhere.

The UN definition of human trafficking, as set out in the Palermo protocol, is the

"recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."

As somebody who has spent time at the UN, I can say that its writing style is never snappy. It becomes the place that time forgot when you are trying to agree wording.

In contrast to that, the definition of human trafficking set out in section 2 of the Modern Slavery Act 2015 refers only to cases in which

"the person arranges or facilitates the travel of another person…with a view to"

that other person "being exploited." Currently, cases that would be considered human trafficking by the UN are not considered to be human trafficking according to our legislation. For example, the current definition excludes cases of harbouring individuals; we just talked about that.

Therefore, as we have discussed, instances of sexual exploitation taking place in one location—such as a person's home, somewhere they have travelled to freely, or online—would be considered human trafficking under the UN definition but not under the Modern Slavery Act. That happened to a woman who was supported by the STAGE project. She was placed in a B&B when she was facing extreme poverty, homelessness and mistreatment. Unfortunately, she faced sexual exploitation and forced labour, perpetrated by the owners of the B&B. That is not uncommon in our unregulated supported accommodation services. That bed and breakfast had been used by housing and social services authorities for years to house vulnerable people, and the owners exploited their vulnerabilities. That woman was not trafficked and would not have been covered by the definition; inconsistency with the UN definition means that people like her are not protected in this country.

Alex Cunningham: Human trafficking has been with us for thousands and thousands of years, but it has no place in a modern society. The nature of human trafficking offences makes it challenging to assess the number of victims in the UK, but we know that referrals through the national referral mechanism for modern slavery and human trafficking have increased. In the year ending December 2022, 7,936 referrals were made for potential victims of exploitation taking place solely in the UK. That was an increase of 10.3% on the previous year. Almost two thirds of British victims of modern slavery and human trafficking are children being exploited for criminality. That accounts for 2,534 children.

The National Crime Agency has warned that the rising cost of living has almost certainly exacerbated the risks of modern slavery and human trafficking. It has said that it is likely that organised crime groups will

consider ways to maintain profitability by offsetting rising costs on to victims, such as by spending less time on victim welfare and by coercing victims into providing even more arduous and risky services.

I am grateful that my hon. Friend the Member for Birmingham, Yardley has provided the Committee with the opportunity to discuss the legal framework around human trafficking. I am sure that all of us in this room would wish that framework to be as robust as possible. As my hon. Friend explained, new clause 24 amends the definition of human trafficking in the 2015 Act to bring it in line with the UN definition, notably by removing the requirement for exploitation to have involved travel. As such, there are a number of cases that would be considered human trafficking by the UN that would not be recognised as such by our criminal justice system.

I am interested to hear the Minister's thoughts on the discrepancy, particularly if she has had any sense from the Department of the number of cases that may fall into that legislative gap, or if she is aware of any cases of the types that my hon. Friend the Member for Birmingham, Yardley outlined, which would not be recognised as human trafficking in English criminal law.

I am particularly interested to hear some comments from the Minister in relation to my hon. Friend's point about offences that take place online, which may not fit the current requirement to have involved travel. Such online offending has increased significantly in recent years with even easier access to digital devices and the internet, and it was driven up during covid lockdowns. I wonder whether the Department has considered the impact of amending the framework in the way that my hon. Friend has suggested. I look forward to the Minister's response.

2.45 pm

Laura Farris: I thank the hon. Member for Birmingham, Yardley for setting out her case for the new clause. I understand the concern underpinning the new clause that there are inconsistencies between the definition of human trafficking in the 2015 Act and some of the international definitions, including the Palermo protocol. However, the definitions set out in sections 1 and 2 of the 2015 Act capture all aspects of modern slavery offending, from international cross-border human trafficking in section 2 to the enslavement of victims in a domestic setting.

In cases where the travel aspect of trafficking is not present or cannot be proven to the criminal standard, criminals can be prosecuted for an offence under section 1 of the 2015 Act. That makes it an offence for a person to hold someone in any kind of slavery or servitude, or to require them to perform forced, coerced or compulsory labour. There is no need for the prosecution to prove that travel was an element of the section 1 offence. I point out too that both section 1 and section 2 attract the same maximum penalty of life, which is a reflection of how seriously both offences are viewed.

Jess Phillips: Does the Minister know how many cases of that were convicted last year, or in how many life has ever been given?

Laura Farris: No, I do not, but I can respond to the hon. Lady on that.

Jess Phillips: Fewer than 10.

Laura Farris: But the police do not tell us that they lack the tools or that there is a gap in the law that requires us to amend section 2. Together, the offences defined in sections 1 and 2 comprehensively cover modern slavery and they are collectively aligned to the international definitions. The police tell us that they provide a clear legal framework. We think that new clause 24 would create overlapping offences, which could cause confusion among the police and prosecutors. I hope that, in light of that explanation, the hon. Member for Birmingham, Yardley will be content to withdraw her new clause.

Jess Phillips: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 31

REASONABLE FORCE IN DOMESTIC ABUSE CASES

(1) Section 76 of the Criminal Justice and Immigration Act 2008 (reasonable force for purposes of self-defence etc.) is amended as follows.

(2) In subsection (5A) after 'In a householder case' insert 'or a domestic abuse case.

(3) In subsection (6) after 'In a case other than a householder case' insert 'or a domestic abuse case'.

(4) After subsection (8F) insert—

'(8G) For the purposes of this section 'a domestic abuse case' is a case where—

(a) the defence concerned is the common law defence of self-defence,

(b) D is, or has been, a victim of domestic abuse, and

(c) the force concerned is force used by D against the person who has perpetrated the abusive behaviour referred to in paragraph (b).

(8H) Subsection (8G)(b) will only be established if the behaviour concerned is, or is part of, a history of conduct which constitutes domestic abuse as defined in sections 1 and 2 of the Domestic Abuse Act 2021, including but not limited to conduct which constitutes the offence of controlling or coercive behaviour in an intimate or family relationship as defined in section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship).'

(5) In subsection (9) after 'householder cases' insert 'and domestic abuse cases'.—*(Jess Phillips.)*

Statutory defence for victims of domestic abuse who may have been coerced into committing certain crimes or driven to use force against their abuser, as a result of being a victim of domestic abuse.

Brought up, and read the First time.

Jess Phillips: I beg to move, That the clause be read a Second time.

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

New clause 32—*Defence for victims of domestic abuse who commit an offence—*

(1) A person is not guilty of an offence if—

(a) the person is aged 18 or over when the person does the act which constitutes the offence,

(b) the person does that act because the person is compelled to do it,

(c) the compulsion is attributable to their being a victim of domestic abuse, and

(d) a reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act.

(2) A person may be compelled to do something by another person or by the person's circumstances.

(3) Compulsion is attributable to domestic abuse only if—

(a) it is, or is part of, conduct which constitutes domestic abuse as defined in sections 1 and 2 of the Domestic Abuse Act 2021, including but not limited to conduct which constitutes the offence of controlling or coercive behaviour in an intimate or family relationship as defined in section 76 of the Serious Crime Act 2015, or

(b) it is a direct consequence of a person being, or having been, a victim of such abuse.

(4) A person is not guilty of an offence if—

(a) the person is under the age of 18 when the person does the act which constitutes the offence,

(b) the person does that act as a direct consequence of the person being, or having been, a victim of domestic abuse as defined at subsection (3)(a) above, and

(c) a reasonable person in the same situation as the person and having the person's relevant characteristics would do that act.

(5) For the purposes of this section 'relevant characteristics' means age, sex, any physical or mental illness or disability and any experience of domestic abuse.

(6) In this section references to an act include an omission.

(7) Subsections (1) and (4) do not apply to an offence listed in Schedule [Offences to which the defence for victims of domestic abuse who commit an offence does not apply].

(8) The Secretary of State may by regulations amend Schedule [Offences to which the defence for victims of domestic abuse who commit an offence does not apply].

(9) The Secretary of State must make arrangements for monitoring of the types of offence for which victims of domestic abuse are prosecuted and use this evidence to inform an annual review of the offences listed in Schedule [Offences to which the defence for victims of domestic abuse who commit an offence does not apply] and any amendment to Schedule [Offences to which the defence for victims of domestic abuse who commit an offence does not apply].

Statutory defence for victims of domestic abuse who may have been coerced into committing certain crimes as a result of being a victim of domestic abuse.

New schedule 2—*Offences to which the defence for victims of domestic abuse who commit an offence does not apply—*

Common Law Offences

1 False imprisonment.

2 Kidnapping.

3 Manslaughter.

4 Murder.

5 Perverting the course of justice.

6 Piracy.

Offences against the Person Act 1861 (c. 100)

7 An offence under any of the following provisions of the Offences Against the Person Act 1861—

- section 4 (soliciting murder)
- section 16 (threats to kill)
- section 18 (wounding with intent to cause grievous bodily harm)
- section 20 (malicious wounding)
- section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence)
- section 22 (using drugs etc to commit or assist in the committing of an indictable offence)
- section 23 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm)
- section 27 (abandoning children)
- section 28 (causing bodily injury by explosives)
- section 29 (using explosives with intent to do grievous bodily harm)
- section 30 (placing explosives with intent to do bodily injury)
- section 31 (setting spring guns etc with intent to do grievous bodily harm)
- section 32 (endangering safety of railway passengers)
- section 35 (injuring persons by furious driving)
- section 37 (assaulting officer preserving wreck)
- section 38 (assault with intent to resist arrest).

Explosive Substances Act 1883 (c. 3)

8 An offence under any of the following provisions of the Explosive Substances Act 1883—

- section 2 (causing explosion likely to endanger life or property)
- section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property)
- section 4 (making or possession of explosives under suspicious circumstances).

Infant Life (Preservation) Act 1929 (c. 34)

9 An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).

Children and Young Persons Act 1933 (c. 12)

10 An offence under section 1 of the Children and Young Persons Act 1933 (cruelty to children).

Public Order Act 1936 (1 Edw. 8 & 1 Geo. 6 c. 6)

11 An offence under section 2 of the Public Order Act 1936 (control etc of quasi-military organisation).

Infanticide Act 1938 (c. 36)

12 An offence under section 1 of the Infanticide Act 1938 (infanticide).

Firearms Act 1968 (c. 27)

13 An offence under any of the following provisions of the Firearms Act 1968—

- section 5 (possession of prohibited firearms)
- section 16 (possession of firearm with intent to endanger life)
- section 16A (possession of firearm with intent to cause fear of violence)
- section 17(1) (use of firearm to resist arrest)
- section 17(2) (possession of firearm at time of committing or being arrested for specified offence)
- section 18 (carrying firearm with criminal intent).

Theft Act 1968 (c. 60)

14 An offence under any of the following provisions of the Theft Act 1968—

- section 8 (robbery or assault with intent to rob)
- section 9 (burglary), where the offence is committed with intent to inflict grievous bodily harm on a person, or to do unlawful damage to a building or anything in it
- section 10 (aggravated burglary)
- section 12A (aggravated vehicle-taking), where the offence involves an accident which causes the death of any person
- section 21 (blackmail).

Criminal Damage Act 1971 (c. 48)

15 The following offences under the Criminal Damage Act 1971—

- an offence of arson under section 1
- an offence under section 1(2) (destroying or damaging property) other than an offence of arson.

Immigration Act 1971 (c. 77)

16 An offence under section 25 of the Immigration Act 1971 (assisting unlawful immigration to member state).

Customs and Excise Management Act 1979 (c. 2)

17 An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles).

Taking of Hostages Act 1982 (c. 28)

18 An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking).

Aviation Security Act 1982 (c. 36)

19 An offence under any of the following provisions of the Aviation Security Act 1982—

- section 1 (hijacking)
- section 2 (destroying, damaging or endangering safety of aircraft)
- section 3 (other acts endangering or likely to endanger safety of aircraft)
- section 4 (offences in relation to certain dangerous articles).

Mental Health Act 1983 (c. 20)

20 An offence under section 127 of the Mental Health Act 1983 (ill-treatment of patients).

Child Abduction Act 1984 (c. 37)

21 An offence under any of the following provisions of the Child Abduction Act 1984—

- section 1 (abduction of child by parent etc)
- section 2 (abduction of child by other persons).

Public Order Act 1986 (c. 64)

22 An offence under any of the following provisions of the Public Order Act 1986—

- section 1 (riot)
- section 2 (violent disorder).

Criminal Justice Act 1988 (c. 33)

23 An offence under section 134 of the Criminal Justice Act 1988 (torture).

Road Traffic Act 1988 (c. 52)

24 An offence under any of the following provisions of the Road Traffic Act 1988—

- section 1 (causing death by dangerous driving)
- section 3A (causing death by careless driving when under the influence of drink or drugs).

Aviation and Maritime Security Act 1990 (c. 31)

25 An offence under any of the following provisions of the Aviation and Maritime Security Act 1990—

- section 1 (endangering safety at aerodromes)
- section 9 (hijacking of ships)
- section 10 (seizing or exercising control of fixed platforms)
- section 11 (destroying fixed platforms or endangering their safety)
- section 12 (other acts endangering or likely to endanger safe navigation)
- section 13 (offences involving threats).

Channel Tunnel (Security) Order 1994 (S.I. 1994/570)

26 An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (SI 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).

Protection from Harassment Act 1997 (c. 40)

27 An offence under any of the following provisions of the Protection from Harassment Act 1997—

- section 4 (putting people in fear of violence)
- section 4A (stalking involving fear of violence or serious alarm or distress).

Crime and Disorder Act 1998 (c. 37)

28 An offence under any of the following provisions of the Crime and Disorder Act 1998—

- section 29 (racially or religiously aggravated assaults)
- section 31(1)(a) or (b) (racially or religiously aggravated offences under section 4 or 4A of the Public Order Act 1986).

Terrorism Act 2000 (c. 11)

29 An offence under any of the following provisions of the Terrorism Act 2000—

- section 54 (weapons training)
- section 56 (directing terrorist organisation)
- section 57 (possession of article for terrorist purposes)
- section 59 (inciting terrorism overseas).

International Criminal Court Act 2001 (c. 17)

30 An offence under any of the following provisions of the International Criminal Court Act 2001—

- section 51 (genocide, crimes against humanity and war crimes)
- section 52 (ancillary conduct).

Anti-terrorism, Crime and Security Act 2001 (c. 24)

31 An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001—

- section 47 (use of nuclear weapons)
- section 50 (assisting or inducing certain weapons-related acts overseas)
- section 113 (use of noxious substance or thing to cause harm or intimidate).

Female Genital Mutilation Act 2003 (c. 31)

32 An offence under any of the following provisions of the Female Genital Mutilation Act 2003—

- section 1 (female genital mutilation)
- section 2 (assisting a girl to mutilate her own genitalia)
- section 3 (assisting a non-UK person to mutilate overseas a girl's genitalia).

Sexual Offences Act 2003 (c. 42)

33 An offence under any of the following provisions of the Sexual Offences Act 2003—

- section 1 (rape)
- section 2 (assault by penetration)
- section 3 (sexual assault)
- section 4 (causing person to engage in sexual activity without consent)
- section 5 (rape of child under 13)
- section 6 (assault of child under 13 by penetration)
- section 7 (sexual assault of child under 13)
- section 8 (causing or inciting child under 13 to engage in sexual activity)
- section 9 (sexual activity with a child)
- section 10 (causing or inciting a child to engage in sexual activity)
- section 13 (child sex offences committed by children or young persons)
- section 14 (arranging or facilitating commission of child sex offence)
- section 15 (meeting a child following sexual grooming)
- section 16 (abuse of position of trust: sexual activity with a child)

- section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity)
- section 18 (abuse of position of trust: sexual activity in presence of child)
- section 19 (abuse of position of trust: causing a child to watch a sexual act)
- section 25 (sexual activity with a child family member)
- section 26 (inciting a child family member to engage in sexual activity)
- section 30 (sexual activity with a person with a mental disorder impeding choice)
- section 31 (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity)
- section 32 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice)
- section 33 (causing a person with a mental disorder impeding choice to watch a sexual act)
- section 34 (inducement, threat or deception to procure sexual activity with a person with a mental disorder)
- section 35 (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception)
- section 36 (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder)
- section 37 (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception)
- section 38 (care workers: sexual activity with a person with a mental disorder)
- section 39 (care workers: causing or inciting sexual activity)
- section 40 (care workers: sexual activity in the presence of a person with a mental disorder)
- section 41 (care workers: causing a person with a mental disorder to watch a sexual act)
- section 47 (paying for sexual services of a child)
- section 48 (causing or inciting child prostitution or pornography)
- section 49 (controlling a child prostitute or a child involved in pornography
- section 50 (arranging or facilitating child prostitution or pornography)
- section 61 (administering a substance with intent)
- section 62 (committing offence with intent to commit sexual offence)
- section 63 (trespass with intent to commit sexual offence)
- section 64 (sex with an adult relative: penetration)
- section 65 (sex with an adult relative: consenting to penetration)
- section 66 (exposure)
- section 67 (voyeurism)
- section 70 (sexual penetration of a corpse).

Domestic Violence, Crime and Victims Act 2004 (c. 28)

34 An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing a child or vulnerable adult to die or suffer serious physical harm).

Terrorism Act 2006 (c. 11)

35 An offence under any of the following provisions of the Terrorism Act 2006—

- section 5 (preparation of terrorist acts)
- section 6 (training for terrorism)
- section 9 (making or possession of radioactive device or material)
- section 10 (use of radioactive device or material for terrorist purposes)
- section 11 (terrorist threats relating to radioactive devices etc).

Modern Slavery Act 2015 (c. 30)

36 An offence under any of the following provisions of the Modern Slavery Act 2015—

- section 1 (slavery, servitude and forced or compulsory labour)
- section 2 (human trafficking).

Ancillary offences

37 (1) An offence of attempting or conspiring to commit an offence listed in this Schedule.

(2) An offence committed by aiding, abetting, counselling or procuring an offence listed in this Schedule.

(3) An offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence listed in this Schedule.

Jess Phillips: Over six years ago, in 2017, the then Home Office Minister for Crime, Safeguarding and Vulnerability said:

"There needs to be a root and branch review of how women are treated in the criminal justice system when they themselves are victims of abuse".

However, no such review has ever taken place, and the criminal law still fails to protect those who experience abuse that drives them to offend. We all know that it does that and there has been endless evidence over many years; the Corston report, now decades old, still stands. While householders have legal protection when they act in self-defence against an intruder, no such protection is available to victims—survivors—acting in self-defence against their abuser.

New clauses 31 and 32 would introduce two measures to address that: a new statutory defence for those who are coerced into offending, and an amendment to the law on self-defence for those who use force against their abuser. Common law defences are outdated and ill-fitting to the context of domestic abuse, leaving survivors with no effective defence. These amendments would modernise the law and reflect improved public understanding of domestic abuse. They are based on legal precedents in place to protect other groups and are not gender-specific. They would address gaps in legal protection for survivors, strengthen recognition of the links between victimisation and offending, and deter inappropriate prosecutions. These reforms should be accompanied by a cross-Government policy framework to aid implementation. We propose that the two new clauses and new schedule 2 be added to the Bill.

New clause 31 amends the law on self-defence and is modelled on the provisions for householders in section 76 of the Criminal Justice and Immigration Act 2008. There are Acts that seem to be about two completely separate things put together; it is good to see that Labour Governments did that as well! The clause would

allow survivors acting in self-defence against their abusers the same protection as householders defending themselves against an intruder. In the case of a householder using force against an intruder, section 76(5A) of the 2008 Act provides that the degree of force used by said householder

"is not to be regarded as having been reasonable…if it was grossly disproportionate".

A householder can therefore use force that is disproportionate, but not grossly disproportionate, provided that the degree of force was reasonable. It is outrageous to deny equivalent protection to women who are victims of domestic abuse defending themselves against someone who has raped, tortured, abused and attacked them. As Nicola Wake has argued, that disparity in protection is impossible to justify.

New clause 32 and new schedule 2 introduce statutory defences for survivors modelled on section 45 of the Modern Slavery Act. They would give survivors of domestic abuse similar protections to victims of human trafficking who are compelled to offend. A case study from the Centre for Women's Justice makes the need for that clear:

"YS is charged with driving whilst disqualified, driving with excess alcohol, driving without insurance and dangerous driving. An officer noticed a vehicle with its brake lights permanently illuminated and swerving from side to side. He activated the siren, indicating for the vehicle to stop. The vehicle did not stop, and a chase continued for five minutes. In the driving seat was a woman, YS.

YS explained she had been dragged from her home partially dressed by her partner, forced to drive, and that he threatened to kill her if she did not drive on. The partner was screaming at her throughout, punching her in the ribs and trying to grab the steering wheel.

The police stop this vehicle and YS is prosecuted. Despite running duress and despite her being viewed as credible, she is convicted. Her conviction was upheld on appeal to the High Court."

Duress was brought up earlier, and I got some points in the break on the defence of duress from some lawyers who have run these cases. As demonstrated by that case study, the defence of duress in these cases is inadequate. For example, the duress defence emphasises the threat of death or serious injury and ignores complexities of DA: a barrister I spoke to in the break said, "Basically, the reason duress doesn't work is because it doesn't work. You have to basically prove you had a gun to your head in the moment." It does not recognise sexual, financial or psychological abuse. It also fails to recognise the nature of domestic abuse, because for the defence of duress to succeed, the threat of physical harm must be imminent—it has to be a gun to your head. The proposed statutory defence is closely modelled on section 45 of the Modern Slavery Act 2015, which provides a defence for victims of trafficking who offend as part of, or due to, their experience of modern slavery or trafficking. The same protections should be offered to victims of domestic abuse.

Alex Cunningham: I will be brief, because my hon. Friend's contribution was very thorough. The explanatory statements make it clear that the aim of these new clauses would speak to the agenda of the House in relation to ending violence against women and girls while ensuring that they get the protection of the law. There is no doubt that the development of such defences in law is far from easy—in fact, it is extremely complicated, as was illustrated—but it is important that we get it right. Labour is determined that women and girls are protected from violence. The work done by my colleagues will help to ensure that we as a society do better in that regard.

No one can doubt that women can be driven to defend themselves when subject to controlling behaviour and domestic abuse, and they can then face prosecution for their actions. Similarly, the controller can drive them to commit other crimes for the benefit of that controller. It can be well argued in both cases that those women are not responsible for their own actions. I am interested in what the Minister will say and how she will address such things to ensure that the victim is not turned into a criminal.

Laura Farris: I thank the hon. Member for Birmingham, Yardley for tabling new clauses 31 and 32 and new schedule 2, which would create two new statutory defences for victims of domestic abuse. She mentioned the defence of self-defence, which is not available to householders only; self-defence is a complete defence available to anyone put in a situation where they are required to engage it. I make that point in passing.

The Committee is aware of the work that the Government have done on domestic abuse, so I will confine my remarks to our most recent work, which has focused on the issues set out in the hon. Member's new clauses and new schedule. First, she is aware that we commissioned a domestic homicide review—undertaken by Clare Wade KC, who has given evidence to the Committee—which was the first from any Government to look at homicide in a domestic context. As part of that exercise, we invited Clare Wade to look at the law on domestic abuse defences. She did not have time to do so then, but she recommended that a further review should be undertaken. At the end of 2023, we commissioned that review by the Law Commission to look specifically at women driven to kill their abusive partners and the defences available to them, and to consider specifically whether legislative change was necessary. The review is due to conclude later this year—I understand by the summer.

I hope to reassure the hon. Member by reading out a few sections—I will only read short sections—of the review's terms of reference, which I believe dovetail neatly with the points she has made in her new clauses and new schedule. Those terms of reference state:

"Most deaths that occur in the context of domestic abuse involve male abusers who kill their female victims. A much smaller number of (almost entirely female) victims of domestic abuse kill their (almost entirely male) abusers…Despite reforms to the partial defences of provocation (now loss of control) and diminished responsibility, concerns continue to be raised that the existing defences to murder and their application in the courts do not achieve just outcomes for this group of victims of domestic abuse who become defendants."

It continues:

"The Law Commission will review the use of defences in domestic homicide cases in the light of modern understandings of the effects of domestic abuse on victims. The project will consider, but is not limited to, the following:

(1) whether the existing defences to murder, and arguments as to lack of requisite intent for murder, operate satisfactorily in the context of a defendant who has suffered domestic abuse;

[Laura Farris]

(2) if not, whether reform of the existing defences or a new bespoke defence or defences are needed for the group identified…while ensuring that reformed or new defences are appropriately limited…

(3) the operation of the applicable rules of evidence, procedure, and ways that the defences are considered from the beginning of the police investigation up to and including at trial, in this context".

Jess Phillips: I recognise all that good work, and I was pleased to see that, but that is specifically about murder and killing, not offending per se, which is what I was talking about. The Law Commission will not come back to the example I gave, with duress defences being used. I was talking about magistrates court cases, where medical evidence of domestic abuse needs to be produced to get a duress defence.

Laura Farris: The hon. Member is correct. I will come on to the other parts but I am starting with the most serious category of offences; I think there has been a particular concern in the law about whether they are adequately dealt with. However, I hope she will understand why we are keen to see the Law Commission's review through to its conclusion, although we are sympathetic to the general aims.

3 pm

I will turn to new clause 31 on the so-called householder defence, which was introduced specifically to address the acute circumstances of dealing with an unexpected intruder. In fact, the last Labour Government introduced it in response to the very controversial Tony Martin case. The Committee will recall that he was a farmer who had been repeatedly burgled by the same people, and he eventually shot one of the burglars on their second or third time round his house—he shot him in the back when he was leaving, and ended up in prison. It was that highly controversial case that resulted in the householder defence.

However, new clause 31 would apply those specific provisions to domestic abuse cases, meaning that disproportionate force against an alleged abuser could be regarded as reasonable, no matter where or when that force is exerted, if the person has suffered domestic abuse at any point at the hands of that person. The Government recognise the horrific harm suffered by victims of domestic abuse. However, given the rationale behind the householder defence, we do not see it as directly comparable, although we are currently undergoing a review of the law in an equivalent circumstance. The householder defence was, of course, introduced to deal with homicides, which is why I started by talking about homicides. I want to make that clear.

I want to outline the defences that exist, not because they are perfect but because they exist in law and it is important to put them on the record. There is a full defence of self-defence, which applies in circumstances of domestic abuse; a person can obviously use extreme reactions if it is self-defence. There are partial defences: loss of control or diminished responsibility may be applicable where the accused who is being prosecuted for murder was previously a victim of domestic abuse. If successful, the defendant will instead be convicted of manslaughter.

The appeal courts have dealt with these cases in quite thoughtful ways in the past. They took a particularly new turn in the early 1990s with the case of Ms Ahluwalia, who had been a victim of domestic abuse for many years. In the end, she poured petrol all over her husband when he was asleep on a bed and set fire to him. She was initially convicted of murder on the basis that loss of control did not apply because what she did was pre-meditated, but her conviction was quashed by the Court of Appeal, which said that different circumstances applied in domestic abuse cases. That has really set the tenor of the common law in dealing with cases of this nature ever since, and it remains an important authority.

The fact that an accused person is also a victim of domestic abuse will be considered throughout the criminal justice process, from the police investigation through to any Crown Prosecution Service charging decision, to the defences deployed at trial under the existing law.

Jess Phillips: Is the Minister still talking about murder? I am not denying that it would be taken into account in murder, but it would not be taken into account in theft or the car incidences. It would not be taken into account like any offence would be for a victim of modern slavery. I am not talking about murder; I recognise the environment for that.

Laura Farris: Well, I have made the point. I was addressing new clause 31. The householder defence is really a homicide defence; those were the circumstances in which it came up, which is why I made those remarks.

New clause 32 and new schedule 2 seek to create a new and specific statutory defence for victims of domestic abuse who commit an offence. The first version provides a defence where a person aged 18 or over does an act because they are compelled to do so as a result of the fact that they are a victim of domestic abuse, and a reasonable person in the same situation as that person, with the same relevant characteristics, would have no realistic alternative to doing that act. The second version applies to persons under 18, and provides a defence where a person acts as a direct consequence of being, or having been, a victim of domestic abuse. New schedule 2 sets out the offences to which that proposed defence would not be available.

I am sympathetic to the thrust of this new clause, particularly because of the correlation between domestic abuse and women who find themselves in the prison system. I know that the Prison Reform Trust, in conjunction with the Centre for Women's Justice, has done really important work on this issue.

I will respond to the hon. Member for Birmingham, Yardley about the case that she mentioned. She called it "JS", but I think it is fair to use its title, because it is in the public domain: Stevens *v.* The Director of Public Prosecutions. She was quite right to outline the facts of the lady concerned, who said that she had found herself behind the wheel of a car, she was in her pyjamas and her other half was next to her; I think he had cocaine in his system. There was a background of coercive control. However, it is also true to say that her defence failed not only at first instance but on appeal, and I will just tell the Committee why, because I was troubled by the case and I wanted to see what factors the Court had considered.

The woman was driving dangerously at the time. However, she had already been disqualified from driving and she purchased the car when she was disqualified from driving. She conceded that she had driven it unlawfully a number of times before, with or without her husband. I am simply going through the factors. These are the factors that the Court of Appeal—the High Court, I think it was—had considered.

The jury took into consideration the fact that the woman did not tell the police at the time, or even in the police station, that she was under duress; she had also called her mum and had not mentioned being under duress. She had also—

Jess Phillips: Terrible defence.

Laura Farris: Well, this is the decision of the Court of Appeal.

Jess Phillips: I am afraid all the Minister is doing is identifying that this change is needed. So that woman did not tell her mother what her cocaine-fuelled partner, who her mother probably hated, was doing to her? Her mother has probably been isolated from seeing her daughter. She did not tell her mother? Has the Minister told her mother about every terrible thing that has ever happened to her? This is all just based on absolute myth and stereotype.

Laura Farris: I am simply going through how the higher court approached it. The point is that the Court found that the jury had not been persuaded that this was a duress case; duress was advanced as a defence, but that defence was not accepted. That is the nature of the system. So, it was not a case that the arguments were ignored; it was that she was not believed.

Jess Phillips: Will the hon. Lady give way?

Laura Farris: Before I do, may I say that I am not asserting my own view, but I did bother to read the case, because I thought it was a difficult case? And I think that it is probably difficult in Committee for MPs to weigh in to whether the appeal courts are right or wrong. The Court's conclusion was that she had not made out her case; that was its conclusion. That is not my view; it is a fact.

Jess Phillips: It may very well be a "fact" that that woman was not successful in getting the defence of duress. In different circumstances, would she have been able to get the defence that I am talking about today? That would be easier to prove, because cases of duress require relevant characteristics to be established, including "battered woman syndrome" and "learned helplessness". Those are outdated concepts, which pathologise women rather than offering an effective defence suitable for the actual circumstances. These concepts require a production of medical evidence—I do not have that for coercive control. That is not practicable and in many cases involves low-level offending tried in magistrates courts.

Laura Farris: I thank the hon. Member for her intervention, which leads into the point I wanted to address in her new clause. Subsection (3)(b) of new clause 32 says that the criminal offence must be:

"a direct consequence of a person being, or having been, a victim of such abuse."

My point is that whatever we make of this case, that woman did not prove causation; the jury was not satisfied that there was causation. And that would still be the case even under the new clause, as drafted. Someone would have to prove a causal connection between domestic abuse and the criminal offence that took place.

So, while we are interested in this area of the law, at the moment it is difficult to see how the new clause changes the defences of duress or self-defence, which already exist in common law.

Jess Phillips: I will just quote the Minister to herself. Earlier, when we were discussing spiking, she said that it was all too well and easy to say, "This already exists. We shouldn't do anything about it." I am just quoting her back at herself. These defences already exist.

Laura Farris: I am simply making a point about causation. The hon. Member has put a causal measure into her new clause and she raised a case, and I am simply saying that it was the conclusion of the jury in that case that causation was not established. I cannot go behind that finding, because we have an independent court system.

Jess Phillips: Apart from the Post Office.

Laura Farris: That has assisted there.

A new statutory defence would also be restrictive in how it is framed and, unlike the common law defence, is less able to respond to the changing nature of forms of domestic abuse. We have seen how in recent years the courts have recognised the development of certain forms of domestic abuse, such as controlling and coercive behaviour, and have been able to weigh that into the application of certain defences in law.

I am interested in this area of the law; I just do not think the new clause is right yet. It is very wide and could provide a full defence to any criminal act, save for those offences listed in schedule 2, without considering the range of seriousness. I recognise that the list of behaviours in schedule 2 is based on the modern slavery defence, but the behaviours covered by that statutory defence are much narrower than those in the Bill, and they apply only where the pressure on the defendant would amount to an offence under the Modern Slavery Act 2015.

To conclude, the Government do not agree at present that the measures proposed by new clauses 31 or 32 are necessary, and I ask the hon. Member for Birmingham, Yardley not to press them.

Jess Phillips: I will just read the first bit of my speech again and then sit down, because we have to get through proceedings today. More than six years ago, in 2017, the Home Office Minister for Crime, Safeguarding and Vulnerability said there needed to be

"a root and branch review of how women are treated in the criminal justice system".

I will welcome it when it eventually comes. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 39

REQUIREMENT FOR SPECIALIST RAPE AND SERIOUS SEXUAL OFFENCE TEAMS

(1) The chief officer of each police force in England and Wales must establish a specialist team for the investigation of rape and serious sexual offences within the relevant force area.

(2) The chief officer must provide for members of the specialist team to be provided with such training and guidance on the investigation of rape and serious sexual offences as the chief officer sees fit.

(3) Any chief officer who fails to establish a specialist team must produce and publish a report to the Secretary of State outlining–

(a) the reasons for the chief officer's decision not to establish a specialist team;

(b) how rape and serious sexual offences are to be investigated in the absence of a specialist team;

(c) what training and guidance is given to officers on the investigation of rape and serious sexual offences."—*(Alex Norris.)*

Brought up, and read the First time.

Alex Norris: I beg to move, That the clause be read a Second time.

It is a pleasure, Sir Graham, to serve with you in the Chair on this final afternoon in Committee. We did not want to miss this opportunity, as any criminal justice legislation is an opportunity to try to improve our dreadfully bad outcomes as they pertain to rape. According to Rape Crisis, there were 68,109 rapes between July 2022 and June 2023. By the end of that 12-month period, charges had been brought in 2.2% of those cases, so that is two out of every 100 resulting in someone being charged. That is just the ones that are reported, with five in six women and four in five men who are raped not reporting.

In the courts, we see trials delayed for years and a staggering 70% of survivors dropping out of the system altogether. Of that 2.2% charge rate, the number of convictions is just a fraction of an already dreadfully low figure. New clause 39 seeks to establish specialist rape and serious sexual offence teams in every police force by making that a requirement. Those teams would have to be provided with proper training and guidance.

If a chief officer of a police force or the Minister had concerns that such a measure fettered operational independence, the new clause hopefully offers a workaround on that. If a chief officer of a police force does not establish such teams, they will be required to publish a report to the Secretary of State outlining the reason, how rape and sexual offences are to be investigated and what training and guidance will be given to officers investigating such cases.

These specialist investigation units will be allowed to use tactics normally reserved for organised crime or terrorist investigations to identify and go after the most dangerous repeat abusers and rapists and get them off our streets. That is not just something that we are pushing forward; it is also a recommendation of the Home Affairs Committee. I am pleased to have the support of its Chair, my right hon. Friend the Member for Kingston upon Hull North (Dame Diana Johnson). The evidence points to specialist teams being effective at investigating such serious crimes, and those forces that do have units already know how well they are performing. Clearly, this should be rolled out so that every victim, no matter where they are in the country, can have their case investigated properly with a view to securing a charge and a conviction.

3.15 pm

Laura Farris: I am grateful to the shadow Minister for raising this important issue. I agree without reservation that centralisation is crucial to the effective policing of rape and serious sexual offences. When we published the end-to-end rape review, we took our obligations seriously. One of the things that has absolutely transformed the policing response is—initially as a pilot, now the national roll-out—Operation Soteria, which I saw in action with the Avon and Somerset police, who were the pioneers. The hon. Member will be glad to know that one of the academics behind its inception, Katrin Hohl, has just been recruited, so we have ongoing involvement with the academics behind it who are guiding us.

Let me give an idea of how effective Operation Soteria has been. As the hon. Member is aware, it is a completely new model of policing. We call it suspect-focused, but it is much more than that; it is a deep dive into the patterns of behaviour that the suspect has undertaken before the rape was committed, whether they were a family member, a stranger, a Tinder date or a long-term partner. Not only has it enabled the police to make far more referrals, but it is leading to far more convictions. To give the Committee an idea of what that looks like, now that Operation Soteria has been rolled out nationally the police are referring three times the number of cases to the CPS for a charging decision as they were in 2016, which was the high point before the Liam Allan case had that catastrophic effect on police outcomes.

Operation Soteria has been key therefore, but aligned with that is our commitment to recruiting 2,000 specialist RASO—rape and sexual offences—officers. That is very similar to the thrust of the new clause of the hon. Member for Nottingham North. Before appearing in Committee today, I considered the letter that the College of Policing sent to all 43 forces in England and Wales about implementation, which is called the RASO investigator skills development programme for first responders.

The training is available to everyone, and the letter includes a direction as to how many RASO specialists are required in each force—I can send a photocopy of the letter to the hon. Member afterwards. That number is worked out from the size of the population that the force serves, so it is appropriate, and no force will not have a healthy population of appropriate RASO-trained specialists. The date for the conclusion of the exercise is April 2024. With all that in mind, I respectfully invite him to withdraw his new clause.

Alex Norris: I note what the Minister says around the transformed approach. The only evidence that will work is whether the charging number increases and cases get to judgment. We will wait to see whether that proof is in the pudding, but on that basis I am happy not to press the new clause, although we might have to return to the matter on Report. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 40

DOORSTEP THEFT: AGGRAVATING FACTOR IN THEFT OFFENCE

"(1) The Sentencing Code 2020 is amended as follows.

(2) After section 72 (supply of psychoactive substance in certain circumstances) insert—

'72A Theft from outside a dwelling place

(1) This clause applies where the court is considering an offence under section 1 of the Theft Act 1968.

(2) Where the theft is of an item delivered to, but not yet taken inside, a person's dwelling place, the court must—

(a) treat this fact as an aggravating factor, and

(b) state in open court that the offence is so aggravated.'"—*(Alex Cunningham.)*

This new clause defines theft from a doorstep as an aggravating factor for the purposes of sentencing in cases of theft.

Brought up, and read the First time.

Alex Cunningham: I beg to move, That the clause be read a Second time.

Increasing numbers of people are choosing to shop online regularly, as opposed to shopping on the high street. With that comes an increase in the number of opportunist thieves. Examples of crime prevention advice on doorstep thefts include, on the Staffordshire police website, Chief Inspector Giles Parsons advising shoppers

"to do all that they can to stop this crime happening… Ask for your deliveries to be diverted to trusted neighbours or friends if you're not going to be home. If this isn't possible, attempt to rearrange to a time when you know you will be in or choose to collect it instead."

Similar advice urging preventive safety measures can be found on the Merseyside police website.

Meanwhile, parcel theft has received little attention in Parliament, although it was raised in the other place in June last year, when the then Business and Trade Minister, the Earl of Minto, said:

"Under the Consumer Rights Act 2015, it is the seller's responsibility to ensure items ordered are delivered and Ofcom requires postal operators to take all reasonable steps to minimise exposure of postal packets to risk of loss, theft, damage or interference in terms of an essential requirement."

Citizens Advice assumed a statutory responsibility to represent consumers of postal services in 2014. It publishes a parcels league table, and the 2023 results showed that the rate of parcel problems is incredibly high. It says that urgent action is needed, but it focuses its work on better regulation of the parcel delivery sector, rather than on sentencing for individual offenders. Overall, there has been a more limited focus on the offenders themselves.

Contrary to the lack of parliamentary discussion, the issue has been gaining attention in the media. The *Telegraph* reported on "porch pirates" in December last year, arguing:

"It's a crime born of modern lifestyles, the explosion in online shopping providing new opportunities for thieves."

The technology and locker company Quadient submitted freedom of information requests to UK police forces seeking statistics on parcel theft. The average reported value of a stolen parcel is £115.07, which, with Citizens Advice claiming that 5.5 million parcels are stolen each year, suggests a hidden economy of up to £630 million. Police forces warn that just a fraction of parcel theft is actually reported, meaning nobody knows the true extent of the problem. Comparing data held by the police to Citizens Advice's figure, it appears that fewer than 0.002% of parcel thefts are ever reported.

The material released in response to the freedom of information request also indicated that the most common time for thefts to occur is between 9 am and 5 pm. Forces report that people aged 22 to 34 are the most likely to have a parcel stolen, suggesting that many parcels are stolen from young people while they are at work. The highest average value indicated for a stolen parcel was—no surprise—from City of London police, at £1,128, almost 10 times higher than the UK average. Conversely, Durham constabulary reported an average of £9.78, less than a tenth of the UK average and £1,118 lower than City of London.

Given the growing concern among consumers, whose doorsteps are no longer safe places, it is clear that firm action must be taken. The new clause would introduce an aggravating factor for such offences, recognising that, while the thieves may not actually enter properties, they do trespass in the gardens or yards of their victims, who may well come face to face with them. Criminals should know that, if they are prepared to enter people's property to steal—just like a burglar would—they risk a higher sentence than for theft from, say, a shop.

The Minister will be pleased to know that I have no intention of pressing the new clause to a vote, but I hope that she will recognise this growing crime in our communities and take action to address it.

Laura Farris: I thank the hon. Member for shining a spotlight on an increasingly common offence. I reassure him that we take theft offences seriously. He will be aware that the maximum sentence is already seven years.

Courts are already required to consider an offender's culpability when sentencing, which allows sentences to reflect the circumstances of the individual case. As the sentencing guidelines are structured, cases of theft that indicate a high level of culpability include those where planning took place, where there was premeditation, where a vulnerable victim was deliberately targeted, or where the offending was undertaken as part of a group and the offender played a leading role. By contrast, a theft that took little or no planning—for example, some kids nicking a box off a doorstep—would be a lower-culpability offence. That is how we square the nature of the offending.

Alex Cunningham: I accept that, and a child who nicks a box off a step just needs a good talking to, in my opinion, but I illustrated in my speech that this activity is becoming more and more organised, and doubtless will be more so in the future. We have to think ahead and make sure that we are ready. It might be the organised crime thing of the year. If people can pick up parcels worth more than £1,000 from somebody's doorstep, there is certainly a need for proper action.

Laura Farris: The guidelines already include a range of aggravating factors for theft, among which are stealing to order, an intention to cause harm to the victim personally, and where the theft was an act of revenge. Obviously, previous convictions of any kind will also be an aggravating factor and result in a higher sentence.

[Laura Farris]

At the moment, the Government resist the new clause, on the basis that it treats doorstep theft more seriously than other theft in similar circumstances, such as the theft of something that had not been delivered but was still sitting in the back of the van. We think that should be treated comparably. At the moment, we think the new clause would lead to discrepancies in the law of theft, which would not be a good development. Therefore, with respect to the hon. Member for Stockton North for raising a perfectly valid point—and I rather regret that he might be right that this is a growing area of crime—I urge him to withdraw the new clause.

Alex Cunningham: As I have indicated, I will withdraw the new clause, but I am grateful for the opportunity to raise the fact that this is a growing problem in our society. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 41

OFFENCE OF ASSAULTING A RETAIL WORKER

"(1) It is an offence for a person to assault, threaten or abuse another person who is a retail worker, and who is engaged, at the time, in retail work.

(2) The offence under section 1 of threatening or abusing a retail worker—

(a) is committed by a person if the person—

(i) behaves in a threatening or abusive manner towards the worker, and

(ii) intends by the behaviour to cause the worker or any other person fear or alarm or is reckless as to whether the behaviour would cause such fear or alarm.

(b) applies to—

(i) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done,

(ii) behaviour consisting of—

(A) a single act, or

(B) a course of conduct.

(3) No offence is committed under subsection (1) unless the person who assaults, threatens or abuses knows or ought to know that the other person is a retail worker and is engaged, at the time, in retail work.

(4) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £10,000 (or both).

(5) An offence committed under subsection (1) is aggravated if the behaviour constituting the offence occurred because of the enforcement of a statutory age restriction.

(6) Where, in proceedings for an offence under subsection (1), it is—

(a) specified in the complaint that the offence is aggravated by reason of the retail worker enforcing a statutory age restriction, and

(b) proved that the offence is so aggravated,

the court must—

(a) state on conviction that the offence is so aggravated,

(b) record the conviction in a way that shows that the offence is so aggravated,

(c) take the aggravation into account in determining the appropriate sentence, and

(d) state—

(i) where the sentence imposed in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or

(ii) otherwise, the reasons for there being no such difference.

(7) Evidence from a single source is sufficient to establish, for the purposes of this section—

(a) whether a person is a retail worker,

(b) whether the person is engaged, at the time, in retail work,

(c) whether an offence committed under subsection (1) is aggravated because of the enforcement of a statutory age restriction.

(8) In this section—

"retail worker" —

(a) means a person whose usual place of work is retail premises, or whose usual place of work is not retail premises but who does retail work,

(b) includes, in relation to a business that owns or occupies any premises in which the person works, a person who—

(i) is an employee of the business,

(ii) is an owner of the business, or

(iii) works in the premises under arrangements made between the business and another person for the provision of staff,

(c) includes a person who delivers goods from retail premises.

"retail premises" means premises that are used wholly or mainly for the sale or supply of goods, on a retail basis, to members of the public.

"retail work" —

(a) in the case of a person whose usual place of work is retail premises, means any work in those retail premises,

(b) in the case of a person whose usual place of work is not retail premises, means work in connection with—

(i) the sale or supply of goods, on a retail basis, to members of the public, or

(ii) the sale or supply of services (including facilities for gambling) in respect of which a statutory age restriction applies,

(c) in the case of a person who delivers goods from retail premises, means work in connection with the sale or supply of goods, on a retail basis, to members of the public done during the period beginning when the person arrives at a place where delivery of goods is to be effected and ending when the person leaves that place (whether or not goods have been delivered),

(d) is not dependent on a person receiving payment.

"enforcement" , in relation to a statutory age restriction, includes—

(a) seeking information as to a person's age,

(b) considering information as to a person's age, or

(c) refusing to sell or supply goods or services,

for the purposes of complying with the restriction (and "enforcing" is to be construed accordingly),

"statutory age restriction" means a provision in an enactment making it an offence to sell or supply goods or services to a person under an age specified in that or another enactment."—*(Alex Norris.)*

Brought up, and read the First time.

Alex Norris: I beg to move, That the clause be read a Second time.

The new clause would create a new offence of assaulting a retail worker. It is no secret that I have been pursuing this issue in some form for my entire parliamentary career, so I do not think the Minister will have been surprised to see it on the amendment paper. The new clause builds on the long campaign by the shop workers' union USDAW—I declare an interest as a member—the Co-operative party, Tesco, the Co-op Group, the British Retail Consortium and many others to create a new law with tougher penalties for those who attack and abuse shop workers. It is a campaign that unites workers and management, and retailers big and small. We have made significant progress in previous legislation by securing an aggravating factor in sentencing for assaulting a shop worker, but a proper offence has yet to be introduced. The new clause would do that.

Everyone has the right to feel safe at work. The Minister asked a number of times during the evidence sessions why shop workers should be treated as a distinct category. The important factor is that, as well as selling things for themselves or their employer, depending on whether they own the shop or are employed to work there, and wearing their name badge or uniform, they have been asked by us in this place to restrict the sale of dozens of categories of items, including cigarettes, alcohol, knives, acids—you name it. That is a hugely significant act of public service, and the consequences of their not abiding by that request are very significant for them personally and potentially catastrophic for the rest of society.

In that moment, shop workers are put at risk, because every declined sale is a possible point of friction. Actions taken by us have created that flashpoint for violence and abuse, and many of us will have heard the harrowing stories of life-changing injuries that shop workers have suffered simply doing their job. It seems to me proper that if we are going to use legislation to require shop workers to enforce restrictions, then we should be prepared to use it to protect them. We should have their backs in that moment. That is the basic premise.

Alex Cunningham: My hon. Friend referred to the evidence sessions. Paddy Lillis said:

"There are about 1,000 incidents a day, and we think that that is just the tip of the iceberg".—[*Official Report, Criminal Justice Public Bill Committee,* 14 December 2023; c. 110, Q57.]

He went on to encourage retail workers who are not reporting incidents to do so. The Government's defence against calls to introduce a specific offence has always been, "There's not enough of it. It's not significant enough for a specific offence." Does my hon. Friend agree that if there are 1,000 incidents a day, there is good cause for the new clause?

Alex Norris: Yes. We are talking about an epidemic scale, and it behoves us to take action. Too many staff have given up on us or on the police and are just pricing violence and abuse in as part of the job, which they should never have to do, or leaving the industry and going to do something else.

The staggering degree of violence and abuse is now accompanied by shoplifting. The new crime statistics published last week show that shoplifting has increased by just under a third in the last year alone, as criminals run rife in our town centres. That is what our staff are facing every day—that is the level of the onslaught—and it has a knock-on impact on those who do not work in the shops but live in and love their community. Businesses in difficult economic circumstances can go under if hit hard by persistent shoplifting, which has a catastrophic impact on local economies and puts off residents. Similarly, big chains are making judgments on a store-by-store basis about whether to keep their shops open if they cannot protect colleagues or if crime makes them unviable, and a big retailer pulling out of a community has a huge impact on the high street.

3.30 pm

The new clause would create a stop point, give the police the tools they need to go after the organised gangs and individuals who perpetrate abuse, and simplify what is currently scattered across the statute book into a consolidated offence, making investigation and, hopefully, charge and conviction easier. It would send a clear signal to perpetrators that they cannot hide in the grey areas.

The eagle-eyed will have noticed that the new clause is a copy of a measure passed in Scotland, introduced by my friend Daniel Johnson MSP, so the language is on a statute book already and could be on ours. While it is early days for that legislation, we heard early signs of its effectiveness in the evidence sessions. The USDAW general secretary Paddy Lillis, as mentioned by my hon. Friend the Member for Stockton North, spoke of an additional 6,000 investigations of retail crime by Police Scotland following the introduction of the new law. Paul Gerrard from the Co-op Group, whose personal leadership in this area has been phenomenal, said cases of violence in Scottish stores are now followed by arrest 60% of the time, whereas the equivalent in England and Wales is in "penny numbers". Something different is happening in Scotland, and my proposition to the Minister is that this clearer consolidated offence is that difference.

I strongly believe that this is a "when" not an "if" moment. This legislation is here, and we should take this opportunity. We will continue to push this at every stage. If the Government will not do this, we will fight tooth and nail to get the opportunity to do so ourselves.

Chris Philp: I thank the shadow Minister for tabling the new clause and for his introduction. The Government certainly share the Opposition's concern. Whereas crime as a whole has been declining over the last 13 years, the last four years and the last year, the past year or two have seen an increase in both shoplifting and assaults on retail workers. That has been seen not only in the UK, but around the world, including in Europe, Australia and the United States of America, and that is of deep concern to us all. I have repeatedly met retailers, including the Co-op, and I met Paddy Lillis, the USDAW general secretary, and some of his members who work in shops, including Tesco and Sainsbury's stores in various parts of London, at the Home Office just a week or two ago, so we are engaging on this matter.

I will say a word or two about the action the Government are taking and then talk about the specifics of the new clause. Last autumn, working together with policing, we published the retail crime action plan. That contained several important commitments from the police, including a reaffirmation of their commitment always to investigate

[Chris Philp]

retail crime, in common with other crime, where there are reasonable lines of inquiry to pursue—not sometimes, not maybe, but always. That includes always retrieving CCTV footage and running it through the facial recognition database we discussed a few weeks ago. Most stores have CCTV and where there is even a partial image of an offender—perhaps it is fuzzy, or there is shade, or they are wearing a hat—it should always be run through the various databases. The algorithm is now very good, and matches can often be obtained even when a visual inspection would suggest that would be difficult. I have seen some extraordinary examples.

We expect police always to do that facial recognition matching. We also expect them always to physically attend a scene where there has been an assault on a retail worker, if attendance is necessary to secure evidence. If it is just CCTV evidence, it can be emailed, but they should attend to secure evidence if they need to. Where store staff, including security staff, have detained an offender, we expect the police to attend as a matter of urgency to pick up that offender.

Carolyn Harris: When the Minister has deliberations with retailers, would he include the charity shop sector and the wholesale industry? They too are experiencing high numbers of thefts.

Chris Philp: Yes, I would. In fact, I think both those sectors have been invited to the larger six-monthly meetings of the retail crime steering group. I should have added that my first job in south London was in a Sainsbury's very close to what is now my constituency —I must have been about 16 or 17—and the first business I ran was a wholesale distribution business whose main warehouse was on the Lichfield Road industrial estate in Tamworth. I recall on one occasion someone trying to drive a JCB through the wall to steal cigarettes and alcohol. That was 20-odd years ago, so I am very apprised of the dangers posed to the wholesale sector as well as the retail sector.

As I was saying, more police attendance is the second element of the retail crime action plan. The third element is targeting prolific and repeat offenders using facial recognition and analysis of data so that we can go after organised criminal gangs. The fourth element is Operation Pegasus, a nationwide project funded partly by about 16 retailers and run by police and crime commissioner Katy Bourne from Sussex. Again, its aim is to identify criminal gangs and go after them specifically.

The police made a lot of commitments in the retail crime action plan, published two or three months ago, and we will have meetings every three months of the retail crime steering group, which consists of leading retailers, the British Retail Consortium and many others, to hold the police to account for delivering the action plan that they have signed up to. I think the next meeting is in a week or two—it is relatively soon. Those are the operational steps being taken. We are working very closely with unions, retailers and representative groups, as I said.

Turning to new clause 41, I have a lot of sympathy for where the shadow Minister is coming from. I understand the desire to strengthen the law in this area, but I will make one or two observations. First, passing laws is the easy bit. The hard bit is creating change on the ground. That applies to a lot of the things we have talked about today, including this issue.

Of course, it is already a criminal offence to assault a retail worker, just as it is an offence to assault anybody. The proposed new offence would replace only common assault—all assault is serious, but that is the lowest level of assault—where the victim is a retail worker. It would not make any difference to or replace other, more serious forms of assault. Those include assault occasioning actual bodily harm, which causes a temporary injury such as a bruise; assault occasioning grievous bodily harm, which causes a lasting injury such as a broken bone; and grievous bodily harm with intent to cause serious injury. The maximum sentences for those other forms of assault are five years for ABH and GBH, and life for GBH with intent. The new clause would not affect those maximum sentences, which are much higher than its proposed maximum.

Alex Norris: Is the Minister saying that if a broader new clause covering all those types of assault were brought back on Report, it would be acceptable to the Government?

Chris Philp: That is not quite what I was saying. I am going to point out a number of potential weaknesses in the new clause. That is one of them, but it is not the only one. I am just saying that it does not address any of the more serious assaults from ABH upwards. It would not affect probably 100% of the assaults of most concern, and probably 90% of all assaults.

The second issue is equity between retail workers and other public-facing workers. Retailers do very important work. As the shadow Minister rightly said, they do things such as age verification, which we in Parliament asked them to do. They put themselves in harm's way, and they have been suffering from appalling abuse, which we all want to stop. All of those things are absolutely true.

This new clause, however, targets only retail workers. There are quite a few other workers with an equally strong claim. When it came to the statutory aggravating factor, which I will talk about in a moment, we orientated it towards all public-facing workers—not just retail workers. If we accept new clause 41 as drafted, reasonable questions might arise about teachers, who sometimes suffer assault at school, or bus, tram or tube drivers. What about refuse collectors, local councillors, social workers, and all these other workers who do an important job on behalf of the public, who sadly are often assaulted? They might say, "What about us?" In the previous bit of legislation, which I will refer to in a moment, we directed it towards the inclusion of all public-facing workers, not just retail workers, important though they are of course.

Alex Cunningham: I am sorry for trespassing on the territory of my hon. Friend the Member for Nottingham North. When we changed the law in relation to health workers, it was because there was a recognised high incidence of assaults on them. We have the same situation now with shopworkers. We do not have the same situation with teachers, refuse collectors or other public servants.

Chris Philp: Other public-facing workers sadly suffer from assault—bus drivers being an obvious example. I will come on to the legislation we introduced. The

hon. Member for Stockton North and I were both on the Bill Committee for the Police, Crime, Sentencing and Courts Act 2022. He will recall that, recognising this concern about retail workers and others, we passed a measure that made it a statutory aggravating factor where the victim of any assault—not just common assault—was a public-facing worker. When judges pass sentence and the victim is a public-facing worker—that includes retail workers—they are obliged by primary legislation to consider a longer sentence than they otherwise would. Reflecting the seriousness of this issue that the shadow Minister, the hon. Member for Nottingham North, so eloquently talked about, this ensures that there is a longer sentence—the person concerned will go to prison for a longer period of time. That came into force less than two years ago, so we have taken action. It would be reasonable to consider just how that is bedding in before going further, much as I sympathise with the intent behind this new clause.

Mention has been made of the offence in Scotland on which the new clause has been modelled, which I think came into force in 2021. The shadow Minister referenced the fact that there has apparently been some uplift in charges in Scotland as a result. I would be interested to find out—maybe outside of this Committee—how that has been established. Prior to this offence going on to the statute book in Scotland, offences where a retail worker was the victim would have been recorded just as assaults, in common with all other assaults. I do not know how it is possible to strip out the baseline to understand how many retail worker assaults were being prosecuted before the new law compared with afterwards. Before the new law in Scotland, they would all just have been counted as regular assaults. I do not know how those that had a retail worker as a victim could be isolated. Maybe the shadow Minister could write to me or we can discuss it later, because I would be interested to hear how that data is derived.

I know I am not supposed to show props or exhibits, so I will not do so, but I have some data on shoplifting prosecutions in Scotland and England over the last seven or eight years that has been indexed. The Committee may want to know that the graph in Scotland and England basically tracks one for one, including the two years after 2021. Certainly, the prosecution of shoplifting offences, which is different from assaults but gives a sense of police action, does not seem to be any different in Scotland and England over the period concerned. If there is evidence, from USDAW or otherwise, on the effect of that Scottish law change, I would be very interested to see and consider it further.

3.45 pm

I also refer the Committee to remarks made by Chief Constable Gavin Stephens, the chair of the National Police Chiefs' Council and, until about a year ago, the chief constable of Surrey. Committee members will recall that we asked him in an evidence session whether he thought that having a bespoke offence for retail workers would make any difference, bearing in mind that assaulting a retail worker is already a criminal offence. On 12 December, he said:

"It would not make a difference in terms of the investigation and operational response, because clearly that is something"

—"that" being an assault on a retail worker—

"that police would act on anyway…it would not make a difference to the initial policing response to investigate the assault."—[*Official Report, Criminal Justice Public Bill Committee,* 12 December 2023; c. 10, Q14.]

The police are duty bound to investigate the assault anyway, given that it is a criminal offence.

Taken in the round, Parliament legislated relatively recently to increase the sentences that judges hand down via the Police, Crime, Sentencing and Courts Act 2022. These are already criminal offences, and the proposed new clause applies only to the lowest level of assault, common assault. It does not make any change to the more serious ones—actual bodily harm, grievous bodily harm, and GBH with intent. The new clause is also directed only at retail workers, potentially neglecting other public-facing workers who deserve the same level of protection such as teachers, bus drivers and so on.

On reviewing the Scottish evidence, it may be that the shadow Minister has some data that I have not seen, and I am very open to looking it at it if he does. I have not yet seen any compelling evidence on the impact of this measure in Scotland. While I sympathise very strongly with the sentiments expressed by the shadow Minister—and I maintain an active interest in this area and an enthusiasm to look at his data—we will not accept the new clause for all those reasons. We want to push operationally on this issue—I have mentioned the retail crime action plan—and we are certainly willing to keep an eye on it. If a case is made that tightening up the law is necessary to address the serious problems in this area, then I would not categorically rule that out in the future. I hope I have set out why I gently and respectfully resist new clause 41 at the moment.

Alex Norris: I am grateful to the Minister for a very full answer and the thoughtful statement on the Government's case is much appreciated. I start by saying that Ministers on a number of occasions, both in Committee and on the Floor of the House—the Home Secretary is very fond of doing it—have talked about reductions in crime and expect, to some degree, garlands for that. The Minister opens his argument here by saying, "Well, actually, this is something that is happening around the world and we are merely tracking that", when he knows that those crime reductions, particularly around vehicle crime, map very accurately with our statistical neighbours. There is a danger of cakeism from the Government in saying that, when crime falls, it is because of the wit and genius of Ministers, and when crime increases, saying "Well, it is happening to all of us, isn't it?" I did not want to let that go unremarked.

On the retail crime action plan and the steering group, we want those to work. We think that those are important interventions and we are all committed to seeing that happen. I know that, whether it is retailers or police, there is lots of energy in this space, and that is very welcome. I still fear that some of it is perhaps a triumph of hope over experience. On the reasonable lines of inquiry, we will again see. That is often cited by Ministers as a major plank in their approach, but I am still willing to take a wager that there is going to be a heavy degree of triage in some of that. The system suddenly being able to do that, having not been able to do that, implies a change of operating model, which has been available at short notice.

Chris Philp: First, I put on the record my thanks to Chief Constable Amanda Blakeman of North Wales police, who leads for the NPCC in this area and was instrumental in publishing the retail crime action plan. On the hon. Gentleman's question about the deliverability of all reasonable lines of inquiry, the approach was based on that taken by Chief Constable Stephen Watson in Greater Manchester, starting about a year and a half ago—perhaps two years now. You might be familiar with this, Sir Graham, but it worked successfully in Greater Manchester, to the point that arrests went up 44% year on year, and I think two magistrates courts had to be reopened, because of the volume of arrests. We saw that working under Chief Constable Watson's leadership, and we want to replicate the success across England and Wales.

Alex Norris: I am grateful for that, and we want to see that success. I add my congratulations to Chief Constable Watson, as well as to—for a little balance—the Mayor of Greater Manchester and to the Deputy Mayor, our former colleague Kate Green. However, we will see, because a lot of the action plan and the Government's other plans are predicated on that work, but the results remain to be seen.

Facial recognition is a good tool in the toolkit. We certainly want detection and to break up organised elements, but again that is a retrospective tool, and it is only part of the armoury. My hon. Friend the Member for Swansea East made an important point that I should have made about the wholesale sector. This is about retail workers in the retail setting, but there is a wider picture, as the Minister said, citing the shocking example in his own experience. This is something that is happening in the supply chain, too: highly organised criminals are taking their in-store experience to go further up the supply chain. That behoves us to take action.

On the specific concerns about the new clause, if the Minister feels that it does not go far enough on assault or cover enough assaults, we are happy to shake hands now on an expanded definition. We would have no problem with that at all. On equity with other industries, we all say that no one should go to work in fear, or in actual fact, of being subject to violence or abuse. The reason why this case is different is that we have put extra obligations on individuals—an obligation with severe consequences: "If not followed, you will lose your job"—so there is some extra responsibility on us.

Chris Philp: Do we not put obligations on, for example, bus drivers to collect fares? That is just one example.

Alex Norris: That does not seem to be the same. Universally, passengers go on to a bus and expect to pay a fare; there is no sense of a growing picture of violence related to bus drivers asking for money from their customers. To be honest, going beyond that case, the point about our special responsibility in this place is that the volume alone behoves us to act. If I am wrong, I will take a different slant, but I do not believe that bus drivers or any of the other industries mentioned—teachers, refuse collectors, local authority councillors—face violence to this degree, with 1,000 incidents a day; if that starts to become the picture in those industries, I will be at the front of the queue to talk about the protections such workers might need. At the moment, however, a fire is burning in this sector, and it is having dreadful consequences for individuals and for the collective, which is why I believe that the change I have suggested is necessary.

On Scotland and the evidence, I was quoting what we had heard in the evidence sessions from Paddy and Paul. The Minister made a good point about the ability to separate assault, but Paul was talking in-store, so assaults that happened in stores would, by definition, be against retail workers. Again, that was all there in their evidence.

I will bring my remarks to a conclusion. This is a point of difference between us and the Government. The Minister made a cogent case, as always. It sounded a lot like the arguments that we had before we got the aggravated offence—the Government always say no until they say yes, in my experience—so I will give them a chance to say yes today, because I will press the new clause to a Division; then we will keep doing that until eventually—I have no doubt whatever we will—we form one mind on this issue.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 10]

AYES

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

NOES

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

Question accordingly negatived.

New Clause 50

ONE-PUNCH MANSLAUGHTER

"(1) A person (P) is guilty of an offence where they cause the death of another person (B) as a result of a single punch in the circumstances described in subsection (2).

(2) The circumstances referred to in subsection (1) are—

(a) P administered a single punch to the head or neck of B;

(b) there was significant risk that the punch would cause serious physical harm to B;

(c) P was or ought to have been aware of the risk mentioned in paragraph (b);

(d) P did not administer the punch referred to in paragraph (a) in self-defence; and

(e) B's death was caused by—

(i) the impact of the punch, or

(ii) further impact or injury resulting from the single punch.

(3) In this section 'serious physical harm' means harm that amounts to death or serious personal injury for the purposes of the Offences against the Person Act 1861.

(4) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a minimum of seven years."—*(Jess Phillips.)*

This new clause is intended to create a specific offence of "One Punch Manslaughter", with a minimum sentence of seven years.

Brought up, and read the First time.

Jess Phillips: I beg to move, That the clause be read a Second time.

I did not know until moments ago, when the Minister was speaking, that we were allowed props. My phone is not a prop, but I inherited the moving of this motion about an hour ago and the prop I have is some messages that the hon. Member for Bishop Auckland (Dehenna Davison) has sent me. I signed her new clause 50 mainly because of many years of listening to her speak very compellingly about her experience as the daughter of a victim of a single-punch death. Essentially, what she has asked me to put on the record today is that the average sentence for deaths in such cases is currently only about four years, and recent sentences have been as low as two years. That is a massive kick in the teeth for the families of victims.

New clause 50 would raise the minimum sentence to seven years, although no sentence will ever feel enough —these are the hon. Member's words, not mine. Crucially, it would also create an offence category, to help with reporting. As things stand, we do not have concrete information on how often these deaths happen and what sentences are passed. With the new clause, we are looking for clarity, but also deterrence and a sense that the sentences are commensurate with the harm caused in these cases. I shall say no more at this stage.

Vicky Ford (Chelmsford) (Con): I, too, have spoken to my hon. Friend the Member for Bishop Auckland. I apologise that I did not sign the new clause; I wish I had.

There is clearly a gap in the criminal justice system, because so often the perpetrators of one-punch assaults are handed unduly lenient sentences that do not provide the sense of justice that victims' families seek and that members of the public expect. That is why my hon. Friend tabled new clause 50, which has been signed by many other hon. Members. It would make one-punch manslaughter a specific offence, attracting a minimum sentence of seven years, and would ensure that these crimes are reported in a consistent way.

4 pm

Recently, the family of a much-loved father who died following a brutal one-punch assault in Grantham described the impact that it had had on the family. The victim's sister described it as a

"senseless act that has left a young boy without his Daddy and for what?"

The perpetrator was charged with manslaughter and sentenced to just four years and eight months in prison.

In Donington, a 47-year-old was rushed into hospital following a single-punch assault. He was left with brain damage and later died, and the perpetrator was jailed for just three years.

In Maldon, very close to my Chelmsford constituency, a man launched an unprovoked one-punch assault on a husband-to-be, who hit his head on the pavement and suffered a brain injury. He spent six hours in hospital having an operation, and then his life support machine was switched off. His fiancée said:

"The family are heartbroken. He was a huge character whose smile could light up a room…Life will never be the same again".

Sentences are clearly not tough enough. That needs to change, not just for the victim's families but to give the public confidence and send a clear message that this type of assault is not acceptable. The second issue, which the new clause also addresses, is the lack of reporting.

Similar action has been taken in Australia, where legislation was passed in September 2014. The point of the new clause is to make it clear that a single punch is as dangerous and potentially deadly an act as the use of a knife or of any other lethal weapon. A person's hands, when used as instruments of violence, can cause irreparable harm and heartbreak. It is hoped that implementing minimum sentences to treat one-punch killings with the severity they deserve will send out a resounding message that such acts will not be tolerated in our society. I do not intend to press the new clause to a vote, but I hope that the Government will introduce such a proposal on Report.

Alex Norris: It is a pleasure to follow the excellent contributions from my hon. Friend the Member for Birmingham, Yardley and from the right hon. Member for Chelmsford. I have spoken to the hon. Member for Bishop Auckland about the new clause; I commend her for her efforts and her courage. It takes real bravery to talk about this issue and press for change.

As my hon. Friend the Member for Birmingham, Yardley said, the new clause intends to create a penalty commensurate with the impact and the nature of the offence. The right hon. Member for Chelmsford talked about unduly lenient sentences; what strikes me from even very cursory research on the topic is the significant range in outcomes, which is hard to understand. It shows that there is a bit of looseness in the legislative framework around this sort of offence.

We will not divide the Committee on the new clause today, but I hope collectively we will send the message that this crime is as dangerous as other forms of serious violence. It has a devastating impact—a ripple effect, as One Punch UK puts it—on individuals, families, local areas and communities.

We have just debated an important new clause about violence against retail workers. The setting for that is quite defined, so we can plan what the response to a crime of a certain nature that happens in a certain place should be. One of the trickier things about this sort of crime is that it could be part of antisocial behaviour or a dispute among neighbours; it could be done in a shop by someone who intended to commit a crime, but not the crime that ended up killing someone; or it could be related to drug use, driving or football. We need to keep an eye on football violence—I am a fan who has been going to matches for three decades, and it feels as though behaviour is changing. Every time we see that sort of aggression or violence, there is a possible moment of manslaughter.

Taking a lead from the Australian approach has merit. I am very keen to hear the Minister's views. I commend the hon. Member for Bishop Auckland for her new clause.

Laura Farris: I pay tribute to my hon. Friend the Member for Bishop Auckland, who has been such an effective campaigner on this deeply personal offence that completely devastated her young life. She has made sure that it is seen not as a minimal offence or a nasty accident, but as the most serious form of assault.

[Laura Farris]

I know that she has been engaging with the Lord Chancellor, and I do not want to pre-empt those conversations. I was due to meet her this week; she was unwell, but we will still do so, and there is a process of discussion.

I want to say a little about new clause 50, and about one or two of the concerns that we have at this point. One-punch manslaughter is already a form of unlawful act—manslaughter—and it closely overlaps with that offence. The new clause closely reflects the existing law, but the common-law offence of unlawful act manslaughter has a maximum penalty of life imprisonment.

The new clause has two elements that differ from unlawful act manslaughter, meaning in practice that it would apply only to a small number of cases. First, the unlawful act set out in the new clause requires

"a single punch to the head or neck".

Secondly, whereas unlawful act manslaughter requires that a reasonable person would have understood that the act posed some risk of harm, the new clause requires a "significant risk" of harm. In other words, it is setting a higher evidential threshold for what the perpetrator knew than the current principles of manslaughter. We would not wish to create an offence that made it harder to get a conviction rather than easier, as is currently the case with manslaughter.

We make similar observations in relation to GBH. Murder can be charged in two circumstances: where there was an intention to kill, or where there was an intent by the perpetrator to cause serious harm to the level of GBH. An intent to kill is not usually present in one-punch cases, but an intent to cause serious harm to the level of GBH may be present. That is called the GBH rule, and in some ways it overlaps with the specific circumstances described in the new clause. There is therefore a risk that people who could be charged with murder would deviate to pleading guilty to the lesser offence because they think that they would get less time. We want to avoid that.

I had another point to make in passing about the Australian system—I cannot lay my hand on my note, but I was going to say that it results in lower sentences than what is suggested here, so it is not a perfect read-across.

The Government's other concern, as nobody on this Committee will be surprised to hear, is about the new clause setting a minimum sentence. We do not wish to create anomalies in the law. How would the family of a victim who was killed by a single punch to the abdomen feel if the minimum sentence did not apply? How would the family of a victim who was killed by two punches to the head feel if their case was treated differently?

As the Committee has seen over the course of our debates, minimum sentences sometimes create difficulties in the law on homicide and irregularities in sentencing. When we extrapolate those to certain circumstances, some of which we probably cannot even imagine as we sit here today, they could cause irregularities further down the line. None of that is fatal to the new clause, by way; it simply informs our thinking and our nervousness with the minimum-sentence suggestion at the moment.

We appreciate, without any reservation, the very serious harm that the new clause targets. We want to see laws and sentencing powers that are flexible enough to deal with different levels of culpability. We would not wish for more people either to get away with it because the intent could not be proved or to use this new offence as an alternative to murder.

We are thinking hard about it, and we wish to maintain consistency in the law. At the same time, we recognise the harm that is caused by this offending. We recognise the seriousness of it, and we recognise the importance of the campaign that my hon. Friend the Member for Bishop Auckland has presented to the House. I ask the hon. Member for Birmingham, Yardley to withdraw the new clause at this point, but we are continuing conversations with my hon. Friend.

Jess Phillips: The hon. Member for Bishop Auckland did not ask me to press new clause 50. However, I can see from looking through the list of supporters that she has managed to unite me and the hon. Member for Ashfield (Lee Anderson)—she may be the only person ever to have managed that. I hope he doesn't take my ribbing too seriously and change his vote on something.

The hon. Member for Bishop Auckland tells me that the Minister and the Secretary of State have both been engaging with her and that she wishes to continue that engagement, so I imagine that these issues will arise again on Report or even in the Lords. I will not press the new clause to a vote today, but the hon. Member for Bishop Auckland is young, bright and short and is determined to see some action on the issue before she leaves this place. Who could blame her, considering her experiences? I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 51

AGGRAVATED OFFENCES: HOSTILITY TOWARDS TRANSGENDER IDENTITY, SEXUAL ORIENTATION AND DISABILITY

"(1) The Crime and Disorder Act 1998 is amended as follows.

(2) For the first cross-heading under Part II, substitute 'Offences aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity: England and Wales'.

(3) In section 28—

(a) for the heading, substitute 'Meaning of "aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity"';

(b) in subsection (1), omit 'racially or religiously aggravated' and insert 'aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity';

(c) in subsection (1)(a), omit from 'based on' to the end of sub-subsection (a) and insert—

'—

(i) the victim's membership (or presumed membership) of a racial group;

(ii) the victim's membership (or presumed membership) of a religious group;

(iii) a disability (or presumed disability) of the victim;

(iv) the sexual orientation (or presumed sexual orientation) of the victim; or

(v) the victim being (or being presumed to be) transgender, or';

(d) in subsection (1)(b), omit from 'hostility towards' to the end of sub-subsection (b) and insert—

'—

(i) members of a racial group based on their membership of that group;

(ii) members of a religious group based on their membership of that group;

(iii) persons who have a disability or a particular disability;

(iv) persons who are of a particular sexual orientation; or

(v) persons who are transgender.';

(e) in subsection (2), in the definition of 'membership' leave out 'racial or religious' and insert 'relevant'.

(4) In section 29—

(a) for the heading, substitute 'Assaults aggravated on grounds of race, religion, disability, sexual orientation or transgender identity';

(b) in subsection (1), omit 'racially or religiously aggravated' and insert 'aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity'.

(5) In section 30—

(a) for the heading, substitute 'Criminal damage aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity';

(b) in subsection (1), omit 'racially or religiously aggravated" and insert 'aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity'.

(6) In section 31—

(a) for the heading, substitute 'Public order offences aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity';

(b) in subsection (1), omit 'racially or religiously aggravated' and insert 'aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity'.

(7) In section 32—

(a) for the heading, substitute 'Harassment etc aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity';

(b) in subsection (1), omit 'racially or religiously aggravated' and insert 'aggravated on the grounds of race, religion, disability, sexual orientation or transgender identity'."—*(Alex Cunningham.)*

This new clause would include offences motivated by hostility towards an individual's disability status, sexual orientation or transgender identity (or perception thereof) in those which are aggravated under the Crime and Disorder Act 1998.

Brought up, and read the First time.

Alex Cunningham: I beg to move, That the clause be read a Second time.

New clause 51 would address the disparity between existing characteristics and current hate crime legislation. It would create parity for maximum possible penalties for all five characteristics defined under the sentencing code. Under current hate crime legislation, hate crimes based on race and/or religion can have higher maximum penalties than their base equivalents, whereas hate crimes based on sexual orientation, transgender identity and/or disability cannot. This creates a two-tier system of justice.

There are precedents for expanding the characteristics covered by aggravated offences. The Crime and Disorder Act 1998 originally defined only racially aggravated offences; this was amended in the Anti-terrorism, Crime and Security Act 2001 to include religiously aggravated offences. In December 2021, the Law Commission published "Hate crime laws: Final report", a comprehensive review of all hate crime legislation. Its conclusion was:

"We remain of the view that we expressed in our 2014 report that the current hierarchy of protection is unfair and sends a distinctly negative message to victims of hate crimes on the basis of disability, sexual orientation and transgender identity. We therefore recommend parity of protection for aggravated offences across all five characteristics."

It also stated:

"There was very strong support for a consistent approach amongst organisational stakeholders…For example, The Bar Council simply said…'There would not appear to be any good reason to withhold parity of protection across the range of protected characteristics.'"

Does the Minister agree with the Law Commission's recommendation that offences motivated by hostility towards an individual's disability status, sexual orientation or transgender identity should be encompassed within the aggravated offences under the Crime and Disorder Act 1998?

New clause 51 comes in the context of soaring levels of hate crime reporting. Over 145,000 cases were reported in 2022-23. Across all monitored strands of hate crime, the numbers of offences have soared since 2011-12. Racially motivated hate crime rose by over 200% in the period, topping 100,000 instances for the first time in 2021-22. Meanwhile, hate crime motivated by religion increased by 433%. What is wrong with our bloomin' society? By sexual orientation, it has increased by 493% and, by transgender identity, it has increased by 1,263%. Violent crime or crimes against the person rose as a proportion of hate crime offences from 29% in 2012-13 to 41% in 2022-23. The number of violent hate crime offences has risen sixfold, from 12,739 to 63,895 in 2022.

LGBT+ people and people with a disability should be able to live their life free from fear, abuse or violence. Labour has committed to take back our streets and be tough on hate crime. We will do so by strengthening and equalising the law so that every category of hate crime is treated as an aggravated offence, to ensure that everyone who falls victim to a hate crime is treated equally under the law. I hope that the Government will support new clause 51.

Laura Farris: I will be brief. I am grateful to the hon. Gentleman for his explanation of the new clause, which seeks to add disability, sexual orientation and trans-gender identity as protected characteristics for the purposes of the aggravated offences set out in the Crime and Disorder Act. I agree with him that it is important that our legal framework is robust and comprehensive when it comes to hate crime. It was for that reason that the Government asked the Law Commission to carry out a detailed review of hate crime legislation.

The Law Commission provided very helpful recommendations on the reform of hate crime laws in December 2021, and the Government intend to publish later this year a full response that will address each recommendation. In the interest of brevity, I hope the hon. Gentleman will agree that it would be premature to make decisions before the formal Government response is published. The Law Commission made 34 recommendations, and we want to respond to each one. Accordingly, I respectfully invite him to withdraw the new clause.

4.15 pm

Alex Cunningham: I am grateful for the Minister's comments, but I think it is clear that the Law Commission favours this work. We favour it—we believe in equality—so I will press the new clause to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 9.

Division No. 11]

AYES

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

NOES

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

Question accordingly negatived.

New Clause 52

DEFINITION OF UNAUTHORISED ACCESS TO COMPUTER PROGRAMS OR DATA

"In section 17 of the Computer Misuse Act 1990, at the end of subsection (5) insert—

'(c) he does not reasonably believe that the person entitled to control access of the kind in question to the program or data would have consented to that access if he had known about the access and the circumstances of it, including the reasons for seeking it;

(d) he is not empowered by an enactment, by a rule of law, or by the order of a court or tribunal to access of the kind in question to the program or data.'"—*(Alex Norris.)*

Brought up, and read the First time.

Alex Norris: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 53—*Defences to charges under the Computer Misuse Act 1990*—

"(1) The Computer Misuse Act 1990 is amended as follows.

(2) In section 1, after subsection (2) insert—

'(2A) It is a defence to a charge under subsection (1) to prove that—

(a) the person's actions were necessary for the detection or prevention of crime; or

(b) the person's actions were justified as being in the public interest.'

(3) In section 3, after subsection (5) insert—

'(5A) It is a defence to a charge under subsection (1) to prove that—

(a) the person's actions were necessary for the detection or prevention of crime; or

(b) the person's actions were justified as being in the public interest.'"

Alex Norris: The new clauses would introduce a statutory defence into the Computer Misuse Act 1990 for cyber-security professionals who are acting in the public interest to better protect the UK from cyber-criminals.

I want to say very clearly that cyber-criminals are more of a threat than ever, and we need arrangements that are fit for the present day to take them on. In the UK alone, there was a 77% increase in cyber-threats last year. We know that their impact on individuals' lives can be hugely consequential, but the legislation that provides the foundation to take on that sort of cyber-threat is more than 33 years old. It was written to protect telephone exchanges before the widespread use of the internet and digital technologies. Legislation has not kept pace with modern cyber-security defence techniques.

Consumer organisations such as Which?, trade bodies and UK cyber-security companies have long campaigned for reform of the 1990 Act. The CyberUp campaign, from which we received written evidence and which is backed by a number of cyber businesses and trade associations such as techUK, believes that reform of the Act would future-proof our response to cyber-crime and could deliver benefits for the UK's economic prosperity and criminal justice system and defend our democracy and national security.

Together, the new clauses would update section 1 of the 1990 Act, which prohibits unauthorised access to computers. Simply put, the legislation inadvertently criminalises a large portion of legitimate vulnerability, security and threat intelligence research by UK cyber-security professionals, who are committing a crime if they use legitimate techniques to check for vulnerabilities, to carry out research or to build defences. We are asking them to put themselves at risk in order to do something that is clearly a social good, so the new clauses seek to update the Act.

The former Home Secretary, the right hon. Member for Witham (Priti Patel), announced a review of the Act in May 2021, nearly three years ago, and Sir Patrick Vallance, who was the Government's chief scientific adviser, gave his backing, saying:

"We recommend amending the Computer Misuse Act 1990 to include a statutory public interest defence that would provide stronger legal protections for cyber security researchers and professionals."

In March, the Chancellor committed to implementing Sir Patrick's review on the pro-innovation regulation of technologies. Hopefully, therefore, we are pushing at an open door. In its report on ransomware, the Joint Committee on the National Security Strategy stated that there has not been enough progress and that the Bill is deficient in this area, so there is a strong argument for this reform.

New clause 52 would tighten up the definition of an offence, and new clause 53 would tighten up possible defences that could be used by individuals legitimately either researching or protecting in the cyber-security space.

Chris Philp: The Government broadly support the sentiment behind the new clause—we want to enable people undertaking legitimate cyber-security work to do so without fear of criminalisation—but this is a very complicated area. The Government published their response

to the review of the Computer Misuse Act last November, and we are actively considering options to strengthen the legislative framework. However, we need to make sure we do that in a way that does not inadvertently create a loophole or a defence that cyber-criminals or hostile state actors could exploit to defend themselves against prosecution. It is complicated and needs quite a lot of thought, and further work is required to make sure we get this absolutely right. We are therefore not ready to accept legislation, but we are committed to giving it further, very careful consideration, so that if changes are needed, we can make them in a way that does not inadvertently create loopholes.

On protections for people engaged in legitimate activity, I remind the Committee that prior to bringing a prosecution, the Crown Prosecution Service applies the public interest test. If somebody were engaging in legitimate cyber-security activity and inadvertently fell foul of the Act, it may well be that the CPS applied that public interest test and therefore did not proceed with the prosecution. However, this does need some more thought, and I do not think we are ready to legislate yet.

Alex Norris: I am grateful for the Minister's assurances on the Government's intent, and on that basis I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Schedule 1

NOTIFICATION ORDERS

"1 The Counter-Terrorism Act 2008 is amended as follows.

2 (1) Section 40 (overview) is amended as follows.

(2) In subsection (2) after paragraph (a) insert—

"(aa) orders applying the notification requirements to persons dealt with in the United Kingdom for certain offences to which this Part does not apply (see section 57A and Schedule 4A),"

(3) After subsection (3) insert—

"(4) Schedule 6A provides for orders applying the notification requirements to persons dealt with for certain service offences to which this Part does not apply."

3 In section 57, in the heading for "Notification" substitute "Foreign offence notification".

4 After that section insert—

"57A Domestic offence notification orders

Schedule 4A makes provision for notification orders applying the notification requirements of this Part to persons who have been dealt with for certain offences that are not offences to which this Part applies."

5 (1) Section 59 (application to service offences) is amended as follows.

(2) The existing provision becomes subsection (1) of that section.

(3) After that subsection insert—

"(2) Schedule 6A makes provision for notification orders applying the notification requirements of this Part to persons who have been dealt with for certain service offences that are not offences to which this Part applies."

6 (1) Section 61 (meaning of "dealt with" for an offence) is amended as follows.

(2) In subsection (4)(b)—

(a) for "or" substitute ", paragraph 2(6)(b) of Schedule 4A";

(b) after "Schedule 6" insert "or paragraph 2(6)(b) of Schedule 6A".

(3) In subsection (5), at the end of paragraph (a) (before the "and") insert—

"(aa) paragraph 2(5) of Schedule 4A or paragraph 2(5) of Schedule 6A (conditions for making domestic or service offence notification order where offence dealt with before commencement),"

7 (1) Schedule 4 is amended as follows.

(2) In the Schedule heading for "Notification" substitute "Foreign offence notification".

(3) For "notification order", in each place it appears (including in any heading except the Schedule heading), substitute "foreign offence notification order".

8 After Schedule 4 insert—

"SCHEDULE 4A

DOMESTIC OFFENCE NOTIFICATION ORDERS

Introductory

1 In this Schedule—

"the appropriate court" means—

(a) in England and Wales or Northern Ireland, the High Court;

(b) in Scotland, the Court of Session;

"authorised person" means the Secretary of State or—

(a) in England and Wales, a chief officer of police;

(b) in Scotland, the chief constable of the Police Service of Scotland;

(c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland;

"offence": any reference to an offence is to an offence under the law of England and Wales, Scotland or Northern Ireland (and does not include a service offence).

Domestic offence notification orders

2 (1) This paragraph applies where an authorised person makes an application to the appropriate court for an order under this paragraph (a "domestic offence notification order") in respect of a person ("the offender").

(2) The court must make a domestic offence notification order in respect of the offender if it is satisfied that the following 4 conditions are met (and must otherwise refuse the application).

(3) The first condition is that the offender has been dealt with for an offence ("the relevant offence") that—

(a) was committed before 29 June 2021,

(b) is punishable with imprisonment for more than 2 years, and

(c) is not an excluded offence.

(4) "Excluded offence" means—

(a) an offence to which this Part applied when the offender was dealt with (see sections 41 and 42),

(b) an offence in relation to which section 30 or 31 of this Act or section 69 of the Sentencing Code applied,

(c) an offence in relation to which section 31 of this Act would have applied if paragraph (b) of subsection (1) of that section were omitted, or

(d) an offence under section 19, 21A or 39 of the Terrorism Act 2000.

(5) If the offender was dealt with for the relevant offence before the commencement of this Part, sub-paragraph (4) applies as if for paragraph (a) there

were substituted—(a)an offence which, on the commencement of this Part, was within section 41(1) or (2),.

(6) The second condition is that—

(a) the offender has been dealt with for the relevant offence in a way mentioned in section 45 (reading any reference to an offence to which this Part applies as a reference to the relevant offence),

(b) the offender was aged 16 or over at the time of being dealt with for the relevant offence, and

(c) the offender—

(i) is imprisoned or detained in pursuance of the sentence passed or order made in respect of the offence,

(ii) would be so imprisoned or detained but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal, or

(iii) is on licence, having served the custodial part of a sentence of imprisonment in respect of the offence.

(7) The third condition is that the relevant offence has a terrorist connection (see section 93).

(8) The fourth condition is that the period in respect of which the notification requirements would apply in respect of the relevant offence (see section 53) has not expired.

Restrictions on applications for domestic offence notification orders

3 (1) A chief officer of police may make an application for a domestic offence notification order in respect of a person only if—

(a) the person resides in the chief officer's police area, or

(b) the chief officer believes that the person is in, or is intending to come to, that area.

(2) The chief constable of the Police Service of Scotland may make an application for a domestic offence notification order in respect of a person only if—

(a) the person resides in Scotland, or

(b) the chief constable believes that the person is in, or is intending to come to, Scotland.

(3) The chief constable of the Police Service of Northern Ireland may make an application for a domestic offence notification order in respect of a person only if—

(a) the person resides in Northern Ireland, or

(b) the chief constable believes that the person is in, or is intending to come to, Northern Ireland.

Effect of domestic offence notification order

4 The effect of a domestic offence notification order is that the notification requirements of this Part apply to the offender.

Modifications of this Part

5 (1) The following modifications apply where a domestic offence notification order is made.

(2) Section 43(1) does not apply to the offender, as regards the relevant offence.

(3) Section 47(1) (initial notification) applies as if the reference to the day on which the person is dealt with were a reference to the date of service of the domestic offence notification order.

(4) For the purposes of section 53 (period for which notification requirements apply), references there to "the offence" are to the relevant offence.

(5) For the meaning of "the relevant offence", see paragraph 2(3)."

9 After Schedule 6 insert—

"SCHEDULE 6A

SERVICE OFFENCE NOTIFICATION ORDERS

Introductory

1 In this Schedule—

"the appropriate court" means—

(a) in England and Wales or Northern Ireland, the High Court;

(b) in Scotland, the Court of Session;

"authorised person" means the Secretary of State or—

(a) in England and Wales, a chief officer of police;

(b) in Scotland, the chief constable of the Police Service of Scotland;

(c) in Northern Ireland, the chief constable of the Police Service of Northern Ireland.

Service offence notification orders

2 (1) This paragraph applies where an authorised person makes an application to the appropriate court for an order under this paragraph (a "service offence notification order") in respect of a person ("the offender").

(2) The court must make a service offence notification order in respect of the offender if it is satisfied that the following 4 conditions are met (and must otherwise refuse the application).

(3) The first condition is that the offender has been dealt with for a service offence ("the relevant offence") that—

(a) is punishable with imprisonment for more than 2 years,

(b) is not an excluded offence, and

(c) if a day has been appointed for the commencement of section 1 of the Counter-Terrorism and Sentencing Act 2021 as that section has effect for the purposes of section 69 of the Sentencing Code as applied by section 238 of the Armed Forces Act 2006, is committed before that day.

(4) In sub-paragraph (3)(b) "excluded offence" means—

(a) a service offence to which this Part applied when the offender was dealt with (see paragraphs 1 and 2 of Schedule 6),

(b) a service offence in relation to which section 32 of this Act or section 69 of the Sentencing Code applied, or

(c) a service offence as respects which the corresponding civil offence is an offence under section 19, 21A or 39 of the Terrorism Act 2000.

(5) If the offender was dealt with for the relevant offence before the commencement of this Part, sub-paragraph (4) applies as if for paragraph (a) there were substituted—

"(a) a service offence as respects which the corresponding civil offence was on the commencement of this Part within section 41(1) or (2),".

(6) The second condition is that—

(a) the offender has been dealt with for the relevant offence in a way mentioned in paragraph 5 of Schedule 6 (reading any reference to a service offence to which this Part applies as a reference to the relevant offence),

(b) the offender was aged 16 or over at the time of being dealt with for the relevant offence, and

(c) the offender—

(i) is imprisoned or detained in pursuance of the sentence passed or order made in respect of the offence,

(ii) would be so imprisoned or detained but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or on bail pending an appeal, or

(iii) is on licence, having served the custodial part of a sentence of imprisonment in respect of the offence.

(7) The third condition is that the relevant offence has a terrorist connection (see section 93).

(8) The fourth condition is that the period in respect of which the notification requirements would apply in respect of the relevant offence (see paragraph 7 of Schedule 6) has not expired.

Restrictions on applications for service offence notification orders

3 (1) A chief officer of police may make an application for a service offence notification order in respect of a person only if—

(a) the person resides in the chief officer's police area, or

(b) the chief officer believes that the person is in, or is intending to come to, that area.

(2) The chief constable of the Police Service of Scotland may make an application for a service offence notification order in respect of a person only if—

(a) the person resides in Scotland, or

(b) the chief constable believes that the person is in, or is intending to come to, Scotland.

(3) The chief constable of the Police Service of Northern Ireland may make an application for a service offence notification order in respect of a person only if—

(a) the person resides in Northern Ireland, or

(b) the chief constable believes that the person is in, or is intending to come to, Northern Ireland.

Effect of service offence notification order

4 The effect of a service offence notification order is that the notification requirements of this Part apply to the offender.

Modifications of this Part

5 (1) The following modifications apply where a service offence notification order is made.

(2) Section 47(1) (initial notification) applies as if the reference to the day on which the person is dealt with were a reference to the date of service of the service offence notification order.

(3) Paragraph 3(1) of Schedule 6 does not apply to the offender, as regards the relevant offence.

(4) For the purposes of paragraph 7 of that Schedule (period for which notification requirements apply), references there to "the service offence" or "the offence" are to the relevant offence.

(5) For the meaning of "the relevant offence", see paragraph 2(3).""—*(Chris Philp.)*

The new schedule provides for orders applying the notification requirements in Part 4 of the Counter-Terrorism Act 2008 to persons who have committed certain domestic offences or service offences.

Brought up, read the First and Second time, and added to the Bill.

Alex Cunningham: On a point of order, Sir Graham. Is it in order for me to thank you and your fellow Chairs for keeping us in order while still allowing us free-flowing discussions; the *Hansard* staff and other House staff; our Public Bill Office staff, who always manage to keep me in order; the Ministers for listening and recognising that the Bill has some way to go to satisfy those of us in opposition; and my colleagues and Government Members for their contributions?

I have saved my last comments for the right hon. Member for Croydon South. During our deliberations, he confessed to having some affection for me—I much appreciated that. I had developed an affection for his beard. I had thought that he was trying to rebuild the reputation of the beard within the Home Office after the Home Secretary, having insulting my constituency, was disqualified from the parliamentary beard of the year competition—a competition that I assure the Committee I went on to win. I hope that I can encourage the right hon. Member for Croydon South to reconsider and grow the beard again. He could succeed me next time around!

Chris Philp: Further to that point of order, Sir Graham. I appreciate the shadow Minister's advice on the beard. Contrary to speculation in the *Daily Mail* a day or two ago that it was removed for electoral reasons, it was in fact removed following intense lobbying by my daughter, who did not like it very much. Perhaps in the future I can aspire to follow in the shadow Minister's footsteps as parliamentary beard wearer of the year.

Let me say a huge thank you to everyone involved in this process. We have sat for 16 sessions, including the evidence sessions and our line-by-line consideration—and haven't they flown by? We have considered 53 new clauses and debated 80-odd clauses in total. May I thank you, Sir Graham, for your benign and benevolent chairmanship, as well as Sir Robert Syms, Ms Bardell, Dame Angela Eagle and Mrs Latham, who have also been in the Chair?

I thank my hon. Friend the Member for Newbury, who made what I think was her ministerial debut on a Bill Committee with great aplomb and attention to detail. I also thank my hon. Friend the Member for North Cornwall, who has been silent but omnipresent—although he almost broke his silence when I was very nearly late the other day.

I thank both shadow Ministers for their very thoughtful and reasonable points. We have had a constructive debate and there are many areas of common ground where we can work together. I am very grateful to them for that. In particular, I thank the hon. Member for Stockton North; I think this is probably the third or fourth Bill Committee we have worked on together, and my affection for him remains undimmed.

I thank the other Members of the Committee—those who have spoken, and perhaps even more so those who have not. Their contributions have all been very interesting and valued, and on some of the clauses we have had a very well-informed and informative debate. I thank the Committee Clerks; *Hansard*, who may at times have struggled to keep up with what we were saying; and the Doorkeepers who have superintended proceedings.

I thank the officials in the Ministry of Justice and the Home Office, as well as those in the Department for Transport and the Department for Environment, Food and Rural Affairs, who have worked for a very long time on this Bill, along with our private offices. As hon. Members can imagine, a huge amount of work goes into preparing a Bill like this one. Teams of dozens of people—perhaps even more than dozens—work over many months, and sometimes even years on some clauses. On behalf of hon. Members and the public, I put on the record our thanks to the officials in those Departments for the work they have done. Without their work, legislation like this would not be brought forward.

It remains only for me to say how much I look forward to discussing the Bill further when it returns to the Floor of the House on Report.

The Chair: I am pleased to respond that both points of order were in order. I add my thanks to the Clerks, the Doorkeepers, *Hansard* and all the other staff who have supported the Committee in its work. I had cause to comment during an earlier session on how welcome outbreaks of courtesy in the Committee were, and I repeat that now. It has been a pleasure to chair some of the sessions, which have been good-humoured, constructive and courteous.

Bill, as amended, to be reported.

4.28 pm

Committee rose.

Written evidence reported to the House

CJB60 Right To Life UK
CJB61 NCC Group
CJB63 CyberUp Campaign
CJB64 St Mungo's
CJB65 Jane Lamprill (further submission)