

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Third Sitting

Tuesday 4 March 2025

(Morning)

CONTENTS

CLAUSES 1 TO 4 agreed to.

CLAUSE 5 under consideration when the Committee adjourned till this day
at Two o'clock.

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

not later than

Saturday 8 March 2025

© Parliamentary Copyright House of Commons 2025

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chairs: DAWN BUTLER, DAME SIOBHAIN McDONAGH, † DR ANDREW MURRISON, GRAHAM STUART

- | | |
|---|---|
| † Bool, Sarah (<i>South Northamptonshire</i>) (Con) | † Murray, Chris (<i>Edinburgh East and Musselburgh</i>) (Lab) |
| † Botterill, Jade (<i>Ossett and Denby Dale</i>) (Lab) | † Murray, Susan (<i>Mid Dunbartonshire</i>) (LD) |
| † Eagle, Dame Angela (<i>Minister for Border Security and Asylum</i>) | † Stevenson, Kenneth (<i>Airdrie and Shotts</i>) (Lab) |
| Forster, Mr Will (<i>Woking</i>) (LD) | † Tapp, Mike (<i>Dover and Deal</i>) (Lab) |
| † Gittins, Becky (<i>Chwyd East</i>) (Lab) | † Vickers, Matt (<i>Stockton West</i>) (Con) |
| † Hayes, Tom (<i>Bournemouth East</i>) (Lab) | † White, Jo (<i>Bassetlaw</i>) (Lab) |
| † Lam, Katie (<i>Weald of Kent</i>) (Con) | † Wishart, Pete (<i>Perth and Kinross-shire</i>) (SNP) |
| † McCluskey, Martin (<i>Inverclyde and Renfrewshire West</i>) (Lab) | Robert Cope, Harriet Deane, Claire Cozens,
<i>Committee Clerks</i> |
| † Malhotra, Seema (<i>Parliamentary Under-Secretary of State for the Home Department</i>) | † attended the Committee |
| † Mullane, Margaret (<i>Dagenham and Rainham</i>) (Lab) | |

Public Bill Committee

Tuesday 4 March 2025

(Morning)

[DR ANDREW MURRISON *in the Chair*]

Border Security, Asylum and Immigration Bill

9.25 am

The Chair: Will everyone please ensure that they have switched off any electronic devices or turned them to silent mode?

We now begin line-by-line consideration of the Bill. The selection grouping for today's sitting is available in the room or on the parliamentary website. It shows how the clauses, schedules and selected amendments have been grouped together for debate. The purpose of the grouping is to limit, in so far as possible, the repetition of the same points in debate. The amendments appear on the amendment paper in the order in which they relate to the Bill.

A Member who has put their name to the lead amendment in a group is called first. In the case of a stand part debate, the Minister will be called to speak first. Other Members are then free to indicate that they wish to speak in the debate by bobbing. At the end of the debate on a group of amendments, new clauses or schedules, I shall call the Member who moved the lead amendment or new clause to speak again. Before they sit down, they will need to indicate whether they wish to withdraw the amendment or the new clause or seek a decision. If any Member wishes to press to a vote any other amendment in a group, including grouped clauses and new schedules, they need to let me know.

I hope that that brief explanation is helpful. I remind Members about the rules on declaring interests, as set out in the code of conduct.

Clause 1

THE BORDER SECURITY COMMANDER

Matt Vickers (Stockton West) (Con): I beg to move amendment 10, in clause 1, page 1, line 6, leave out "designate a civil servant as the" and insert "appoint a".

This amendment would remove the requirement for the Border Security Commander to be a civil servant.

The Chair: With this it will be convenient to discuss clauses 1 and 2 stand part.

Matt Vickers: It is a pleasure to serve under your chairmanship, Dr Murrison. The subject of this Bill is incredibly important to this country and its future. I hope that, during the next two weeks, the Committee will give us a constructive opportunity for the consideration and strengthening of the Bill.

Let me briefly outline our first amendment. Clause 1 creates the Border Security Commander as a statutory office holder, and requires that the Secretary of State must designate a civil servant as the Border Security Commander. As Tony Smith, former director general of the UK Border Force, said in evidence to the Committee:

"I am not sure he will actually be able to command anything. He is probably going to be more of a co-ordinator."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee, 27 February 2025; c. 40, Q43.*]

That is why we tabled amendment 10, which would remove the requirement for the Border Security Commander to be a civil servant.

The status of the Border Security Commander—as well as the commander's functions and priorities, which I will come to in discussions on later amendments—is crucial if the role is to be in any way meaningful. As the Minister is aware, there are organisations that do not require civil servants to run them. Such a structure ensures their independence and reduces the internal day-to-day political struggles that can easily be imposed on them. Allowing recruitment from outside the civil service may also provide a wider talent pool and prevent the role from being relegated to that of yet another senior civil servant in the Department. We heard evidence about the wide array of roles in the Home Office already. The amendment would highlight the clear distinction between existing positions and the importance of securing our borders.

I would be grateful for the Minister's answers to the following questions. Why have the Government decided that the Border Security Commander must be a civil servant? What is the operational benefit of that decision? Why would the Border Security Commander not benefit from greater independence? What level of seniority will the Border Security Commander have? In evidence to the Committee, Tony Smith assumed that the post would likely be a director general. Is he correct? If so, why have the Government made that decision? Fundamentally, if Mr Smith is correct and the Border Security Commander cannot actually command anything—we will discuss that in detail when we come to later amendments—what is the point of the position?

Clause 2 sets out that the Border Security Commander must

"hold and vacate office in accordance with the terms and conditions of the Commander's designation,"

and that the

"terms and conditions of a designation as Commander are to be determined by the Secretary of State."

That is all the information we get. Will the Minister explain what the terms and conditions of a designation as commander will be? Let us compare the situation of the Border Security Commander, who is allegedly responsible for the security of our border, with that of the Metropolitan Police Commissioner. The Police Reform and Social Responsibility Act 2011 sets out that the commissioner has to be suitably qualified; will the Minister explain why no such requirement appears to exist in the legislation for the Border Security Commander? What would count as suitable qualifications for someone to take up the post of commander?

If the Secretary of State determines that a person's designation as commander should be terminated, the Secretary of State must give the commander a written

explanation of the reasons, give them an opportunity to make written representations and consider those before making a final decision. That seems sensible and in line with other positions, such as the Met Commissioner, that ought to be vaguely comparable in terms of responsibility.

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure to serve with you chairing our proceedings, Dr Murrison, and I look forward to many hours of that—as I am sure you do.

I will set out what clauses 1 and 2 do and hopefully persuade the Committee that amendment 10 is not required. The clauses set out the role of the Border Security Commander and detail the terms and conditions under which they hold the office. The purpose of the Opposition's amendment 10 is to remove the requirement that the Border Security Commander be a civil servant. The hon. Member for Stockton West—I will learn all Members' constituencies by the time we get to the end—seemed to say that he thought there was operational benefit in complete independence. I suppose that is one way of looking at it, but there is also benefit in co-ordination and in being attached to a central strategic point. The Government believe that that attachment, rather than total independence for the sake of it, is more likely to be effective.

Amendment 10 implies that the Border Security Commander should not be a civil servant. The role of the commander is a civil service role and the Border Security Command is a directorate within the Home Office. In a future recruitment exercise, existing civil servants could be appointed or the role could be advertised externally. Under the arrangements in clause 1 there is no limit one way or the other on where the Border Security Commander might come from—they could be internal or external. I hope that is some reassurance.

The mechanism of appointment is a civil service recruitment campaign to ensure that the best candidate is selected on merit. Given that the role sits within the Home Office and leads the functions of a directorate in the Department, it is logical that the role would be a civil service role. The idea is to cohere, not to fragment the work that is done. I see it very much as ensuring that all the cogs across Government connect with one another, so that when we turn the wheel we get something out at the end, rather than having a load of cogs that do not connect, which would not lead to a more effective outcome.

Clause 1 sets out that the Secretary of State must designate a civil servant as the commander and will make the necessary arrangements to ensure that resources are available to support them in exercising their functions. The Bill will place the Border Security Commander on a statutory footing, which will future-proof and solidify the role and ensure a clear direction and leadership for the UK's border security system. Placing the Border Security Commander under this new legal framework is a clear signal of our determination to tackle organised immigration crime by going after the criminals who put lives at risk and undermine our border security.

Clause 2 details the commander's terms and conditions and how they will hold, maintain and vacate the office. This clarity is necessary to ensure continuity in the role, and it underlines the Government's commitment to making the Border Security Commander an enduring office.

Katie Lam (Weald of Kent) (Con): We on the Opposition Benches struggle to understand why the law must set out that the Border Security Commander must be a civil servant. The Minister said that amendment 10 implies the commander should not be a civil servant, but all it seeks to do is remove the requirement that they should be. If the Home Secretary and, presumably, the Home Office permanent secretary believe that the role is best filled by a civil servant, perhaps for the reasons of co-ordination that the Minister set out, so be it—they can still be appointed as a civil servant—but the legislation will mandate that they have to be, and we struggle to understand why that requirement is necessary.

Dame Angela Eagle: I made it clear in my response to the hon. Member for Stockton West that the recruitment could be done externally. Were somebody to be appointed who was not a civil servant when they applied, they would then come into the Home Office on civil service terms, bringing with them whatever experience they had and that the recruitment process had determined would be suitable for the role. I am not sure there is much between us, unless the hon. Lady is implying that, by the act of becoming a civil servant, the commander would somehow be less effective. I do not believe that is the case, especially as the idea is to ensure that the Border Security Commander can convene the entire system across Government Departments. Having a base in the Home Office, albeit designated as a civil servant, will make that more effective rather than less effective. To be clear, if the legislation gets on the statute book, any future office holder would not have to come from the civil service. I hope that reassures the hon. Lady.

Katie Lam: I thank the Minister for that response, which is reassuring, but it does not quite address the concern. These issues are very difficult, and I presume the Minister accepts that it is possible that it might be better, either in due course or in relatively short order, for the commander to be operationally independent. If that is the Home Secretary's judgment as time goes on, the Government will have to come back to Parliament to change the law. Would it not be better for them to give themselves the flexibility?

Dame Angela Eagle: The hon. Lady implies that total independence from the machinery of government would somehow assist in the job that we wish the Border Security Commander to do. I do not agree with her in that analysis. The job of the Border Security Commander is to convene and cohere and to strategically focus, across Government Departments, with a focus on checking that our border security is as effective as it can be. I do not think that total independence is going to add to effectiveness in that context. In fact, we believe that having the commander operating out of the Home Office at a director general level, but appointed by the Prime Minister with a special place in primary legislation, is a more effective way to ensure that the commander's basic role has the biggest-percentage likelihood of being effective.

Mike Tapp (Dover and Deal) (Lab): The Minister has been clear that we can of course recruit from outside the civil service, and that being within the civil service equips the person with the powers, the tools and, of course, the access to be effective in the role.

[Mike Tapp]

I am slightly concerned that the hon. Member for Stockton West tabled the amendment off the back of oral evidence from Tony Smith, who—with full respect—retired from his role 13 years ago. The director general of the National Crime Agency gave evidence on the same day as Tony Smith, and he said:

“For me, I have worked really closely with Martin Hewitt already, and it works well. It allows me to focus on the operational leadership of tackling the organised crime threat and Martin to have the convening power and to work across Whitehall on a range of issues. It provides clarity, and we have more than enough to get on with in the NCA in tackling...organised crime”.

Jim Pearce, the National Police Chiefs’ Council lead on organised immigration crime, then said:

“I sit on Martin’s board, so strategically I am heavily involved, and members of my team sit within the operational delivery groups. Speaking from a personal point of view, his strategic plans over the next few years make absolute sense in terms of what he is seeking to achieve for the Border Security Command.”—[*Official Report, Border Security, Asylum and Immigration Bill Public Bill Committee*, 27 February 2025; c. 38, Q42.]

Dame Angela Eagle: I thank my hon. Friend the Member for—is it Dover?

Mike Tapp: Yes, Dover and Deal.

Dame Angela Eagle: I was just checking that I had my hon. Friend’s entire constituency name. They have all changed, Dr Murrison, which can be a bit disorientating because I am used to the old names.

My hon. Friend is exactly right. He demonstrates, through the evidence we heard—particularly from the NCA, the Crown Prosecution Service and the police chiefs last Thursday—that there is and was a strategic gap. Everybody is doing fantastic work in the NCA, the police, His Majesty’s Revenue and Customs and the security services, but nobody had taken a focused look at how border security could be delivered most effectively. From the meetings I have had since Martin Hewitt took up his post, it seems there is almost relief that somebody is convening a board that can look at analytics on where the threats are, how they are developing and how we can best deal with them, and do the legwork to come up with a strategy focused on border security. That is the whole point of creating the command.

Chris Murray (Edinburgh East and Musselburgh) (Lab): It is a pleasure to serve under your chairmanship, Dr Murrison. I would like to make a couple of points about the amendment.

As the Minister set out, clause 1 does not mean that someone who is not a civil servant cannot apply for the role. We have to be careful not to have an old-fashioned view of how the civil service operates. External candidates are increasingly common nowadays as outside specialisms are required by the Government, even for roles that are not particularly senior.

Even if an external candidate applies, they will get the support of the civil service. The role compares to Home Office roles such as the independent chief inspector of borders and immigration and the commissioner on modern slavery, who are separate from the Home Office apparatus and often report—especially at the Home Affairs Committee—that they do not get the support

and structural backing they need. Clause 1 would obviate that. The commander will also be subject to the civil service code, which is important given the high levels of public expectation for the role.

The one difference between this and other directors general, and other senior figures in the Home Office, is that the role is set out in primary legislation. We will thereby create a distinction for the role by passing the Bill. The shadow Minister suggested that we should discuss the suitable qualifications for the role, but the role is very operational so we should be wary of setting out in legislation or in this debate the exact specifications of every task.

Finally, we must be careful of the pendulum swinging in one direction with one Government and then, with a change of Government, straight back in the other direction, meaning we repeat the mistakes of the past. When the coalition Government came into office in 2010, Home Secretary Theresa May—now Baroness May—restructured the UK Border Agency, as it was under the Labour Administration. She commented at the time that the UKBA had been structured in such a way as to be so independent that it would

“keep its work at an arm’s length from Ministers—that was wrong. It created a closed, secretive and defensive culture. So I can tell the House that the new entities will not have agency status and will sit in the Home Office, reporting to Ministers.”—[*Official Report*, 26 March 2013; Vol. 560, c. 1500.]

Although we are trying to correct what has clearly gone wrong over the previous 14 years of Conservative government of Border Force, it is important that we do not overcorrect and go back to the situation we were in before, which Baroness May pointed out did not work then.

9.45 am

Dame Angela Eagle: My hon. Friend makes some very good points, particularly about over-correction between Governments but also about the fact that independence is an obvious thing to have for particular posts—in inspection, for example, but not necessarily operational ones—and the need to cohere a system, to ensure that all the good work being done across different Departments can be focused strategically on one aim. That is what the clauses seek to do.

Tom Hayes (Bournemouth East) (Lab): It is a pleasure to speak under your chairpersonship, Dr Murrison. I want to take on a principled point that I have heard levelled by the hon. Member for Stockton West and other Conservative Members today and on Second Reading, which is that the Border Security Commander cannot command. It is really important to address that point.

From 2018 to 2023, we saw the number of small boat arrivals increase from 299 to 29,500. That is a hundredfold increase. As I understand it, some of the explanation given by the Conservatives is that the matter became very complicated, and we were seeing an increase in organised crime activity. To their credit, that was reinforced by the director general of the National Crime Agency, Rob Jones, who said

“The problem that I focus on is the organised crime element, which needs concurrent effort in a number of areas, designed to undermine the business model that supports organised immigration crime. That means tackling illicit finance; the materials that are

used in smuggling attempts and the supply chain that supports them; the high-value targets based overseas who are involved in supplying materials and moving migrants”.—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee*, 27 February 2025; c. 29, Q28.]

Those were just some of the things he highlighted.

If we acknowledge that the present Government face a more complicated situation, we should agree that it will involve a suite of tools. As Rob Jones said,

“There is not one thing that you can do to tackle these problems”.—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee*, 27 February 2025; c. 29, Q28.]

Sarah Dineley, the deputy chief Crown prosecutor, concurred with her colleagues and said:

“I do not believe that there is one single measure that would impact so significantly that it would reduce migrant crossings to zero.”—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee*, 27 February 2025; c. 30, Q28.]

Jim Pearce, the National Police Chiefs’ Council lead for organised immigration crime, highlighted the same point.

If the situation is so complex and there is a need for the suite of tools that are being strengthened by this Bill, surely there is a need for greater co-ordination. Greater co-ordination will surely help to fix some of the strategic challenges that our immigration system and asylum system have faced in recent years. To co-ordinate is to command, and it is crucial we accept that point. If we do not, we will not be able to tackle the backlog we face, we will not be able to implement the measures in the Bill and we will not be able to secure our borders.

Amendments have been tabled in relation to aspects of the Border Security Commander role, but I am not entirely certain whether the Conservative party supports the role of Border Security Commander at all. On Second Reading, we heard colleagues asking what Martin Hewitt is doing with his time. I would welcome the hon. Member for Stockton West explaining whether the Conservative party does in fact support the role of Border Security Commander and Border Security Command. We heard clearly from those who gave oral testimony, who are operationally focused, experienced and expert in their field, about the necessity of such a command. Indeed, Enver Solomon, the chief executive of the Refugee Council, summed it up well when he said that

“the Border Security Command is an understandable response.”—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee*, 27 February 2025; c. 5, Q1.]

Matt Vickers: We will discuss when we come to the next group of amendments the aims and objectives of this role, and the fact that if we are going to have a Border Security Commander, they should have a very meaningful role that can make a real difference. I would like to press on clause 2 of the Bill, which talks about

“The terms and conditions of a designation as Commander are to be determined by the Secretary of State.”

I would be grateful if the Minister could explain to the Committee what those terms and conditions of designation might be? As I mentioned, the Police Reform and Social Responsibility Act 2011 sets out how the Met commissioner must be suitably qualified. What sort of qualifications could we expect to see in a commander and what will those terms and conditions be?

Dame Angela Eagle: I do not want to read out the job description, which was put out there ahead of Martin Hewitt being appointed last year. It is there for all to

see, it is a public document. The role is very much about being able to operationally cohere the system and to make certain by the operation of the Border Security Commander’s board, upon which sit many of the other parts of Government that need to have regard to the strategy, that we decide how to take forward and deal with threats to our border security. It is not really rocket science, and I do not think that there would be much to be gained from putting the details of all of that into primary legislation.

It is important that as the threats to our border security evolve, which they certainly will do over time, that we do not find ourselves with a very rigid set of requirements in primary legislation, which is hard to change. The idea is to have convening powers to give flexibility to the commander to ensure that he can bring together all of the forces across Government that are charged with security in this area and ensure that the focus on organised immigration, crime and border security is always at the forefront of the work that they do.

Katie Lam: I am a little confused by some of the contributions from Labour Members. They seem to be advocating for the commander to be a civil servant, and that is fine, but that is not actually what we are discussing. The question here is whether there could be any benefit in having some flexibility for the Home Secretary to do something different, and we do not feel that that point has been answered.

Dame Angela Eagle: Could the hon. Lady go into more detail about what she means with respect to that? I have given her an assurance that the Border Security Commander could come from outside of the civil service and be appointed from outside of the civil service, but would then take up a civil service role of convening within Government and with the support of Government. That means that we do not have to set up an entirely new independent structure and fund it separately, which would be more likely to disintegrate rather than integrate the strategic approach to this multifaceted problem. I am beginning to wonder what the hon Lady has got against civil servants?

Katie Lam: Nothing whatever. There are lots of parts of the Home Office where the principle is accepted, that sometimes, particularly for difficult things and things that the Department has struggled to achieve, independence can be valuable. It sounds like the Minister is saying that she does not feel that that is the case. We must accept that, but we do not have to agree with it.

Dame Angela Eagle: It is true that independence has a very valuable part to play, particularly in holding Government structures to account. For example, the independent inspectors of our detention or prison estates who are allowed to go in and publish without fear or favour regarding what they find there. That is obviously a very important role where independence matters. But in this context, the Border Security Commander is cohering the effect and the work across Government that is trying to keep our borders properly protected. That is operational. It ties into the diplomatic and political as well, although obviously Ministers have an important part to play in that too.

[*Dame Angela Eagle*]

The hon. Lady has nothing to worry about when it comes to the Border Security Commander sitting in a civil service context given that nothing in this Bill means that anyone who was not a civil servant when they applied to the post of Border Security Commander would be excluded from consideration. Being in the civil service to begin with is not a requirement.

Matt Vickers: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 1 ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3

FUNCTIONS OF THE COMMANDER

Pete Wishart (Perth and Kinross-shire) (SNP): I beg to move amendment 1, in clause 3, page 2, line 29, at end insert—

“(1A) In exercising the Commander’s functions, the Commander must have full regard to the provisions of—

- (a) the Human Rights Act 1998; and
- (b) the Council of Europe Convention on Action against Trafficking in Human Beings.”

This amendment would confirm that the Commander must have full regard to the Human Rights Act and the European Convention on Action against Trafficking.

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

Amendment 12, in clause 3, page 2, line 36, at end insert—

“(2A) The strategic priority document issued under subsection (2) must support the Home Office’s UK Border Strategy.”

This amendment would require that the Border Security Commander’s strategic priority document supports the UK Border Strategy.

Amendment 13, in clause 3, page 2, line 36, at end insert—

“(2A) The Home Secretary may give direction to Border Force, Immigration Enforcement, Police and Crime Commissioners (PCCs) and the National Crime Agency to support the Border Security Commander in the delivery of the Border Security Commander’s objectives and strategic priorities.

(2B) The Home Secretary’s powers under subsection (2A) must not be used to interfere with the democratic mandate of the PCC within a force area, nor seek to interfere with the office of constable or operational independence of the chief constable or the operational independence of the National Crime Agency, unless the Home Secretary is satisfied on the advice of HMICFRS that not to do so would result in a police force of the National Crime Agency failing or national security being compromised.”

This amendment would enable the Home Secretary to direct other agencies to support the Border Security Commander’s objectives and strategic priorities.

Amendment 11, in clause 3, page 2, line 41, leave out subsection (b).

This amendment would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State before issuing the strategic priority document.

New clause 7—*Duty to meet the director of Europol*—

“The Border Commander must meet the director of Europol, or their delegate, no less than once every three months.”

This new clause would require the Border Commander to meet with the Executive Director of Europol every three months.

New clause 21—*Functions of the Commander in relation to sea crossings to United Kingdom*—

“(1) In exercising the Commander’s functions in relation to sea crossings to the United Kingdom, the Commander must have regard to the objectives of—

- (a) preventing the boarding of vessels, with the aim of entering the United Kingdom, by persons who require leave to enter the United Kingdom but are seeking to enter the United Kingdom—
 - (i) without leave to enter, or
 - (ii) with leave to enter that was obtained by means which included deception by any person;
- (b) ensuring that a decision is taken on a claim by a person under subsection (1)(a) within six months of the person’s arrival in the United Kingdom; and
- (c) making arrangements with a safe third country for the removal of a person who enters the United Kingdom without leave, or with leave that was obtained by deception.

(2) The Commander must include, in the strategic priority document issued under section 3(2), an assessment of—

- (a) the most effective methods for deterring illegal entry into the United Kingdom;
- (b) the most effective methods for reducing the number of sea crossings made by individuals without leave to enter the United Kingdom; and
- (c) the most effective methods for arranging the removal, to the person’s own country or a safe third country, of a person who enters the United Kingdom illegally.

(3) For the purposes of this section—

- (a) ‘sea crossings’ are journeys from dry land in France, Belgium or the Netherlands for the purpose of reaching dry land in the United Kingdom; and
- (b) illegal entry to the United Kingdom is defined in accordance with section 24 of the Immigration Act 1971 (illegal entry and similar offences).”

This new clause sets out objectives and strategic priorities for the Border Security Commander in relation to sea crossings and arrangements with a safe third country for the removal of people who enter the UK illegally.

Pete Wishart: It is a pleasure to serve under your chairship, Dr Murrison. It is a good 10 years since I have had the pleasure and privilege of being on a Public Bill Committee—or Standing Committee, as we used to call them back in the day—and I hope that it will be as much fun as I remember. Ten years ago, I was the home affairs spokesperson, and I saw a number of Bills quite like this one: good old-fashioned “stop them coming and boot them out” Bills. There has been a succession of them over the years from various Governments. The Minister knows that I hold her in great respect and affection, and I wish her particularly well with the Bill.

Dame Angela Eagle: I hold the hon. Gentleman in similar affection. We are pretty long in the tooth—we are the two people who are the most long in the tooth on this Bill Committee—and I look forward to listening to his arguments.

Pete Wishart: I am grateful to the Minister for that. I would hate to think of our combined number of years in this House, but certainly we have almost spanned half a century.

The first 12 clauses are totally dedicated to putting the Border Security Commander into statute, and the first three list his functions, and outline and define some of his responsibilities. The Bill states that the Border Security Commander must be appointed by the Home Secretary and will be obliged to prepare annual reports. A board will be appointed

“to assist the Commander in the exercise of the Commander’s functions.”

I do not know about other hon. Members, but the last time I looked there already was a Border Security Commander, who is doing the job as outlined in the Bill effectively, pretty much as the Home Secretary has been directing him, without needing to have been put into statute. If my mind does not deceive me, I remember Martin Hewitt being appointed as the commander and doing all these things, but here he is, 12 clauses of a Bill better off, and secure in the knowledge that he is now in statute.

All that makes me think of the BBC Scotland series “The Chief”, which as Scottish members of the Committee will know is the fantastic new spin-off of “Scot Squad”. It features the mythical and fantastic character Chief Commissioner Miekelson. He is a complex character. A bit self-aggrandising, he is always getting himself on the wrong side of various issues around the culture wars, which he is pretty uncomfortable with; he always manages to upset or offend somebody. I am sure that he is the exact opposite of Commander Hewitt, who I believe is modest, nice and easy to get on with—I have not had the pleasure of meeting him so far. However, they have a couple of things in common, which I want to explore as we look at the functions of the commander.

It strikes me that Commander Miekelson would love to be in statute; 12 clauses of a Bill—he would look at this as some great calling card. They face similar threats: for Commander Miekelson, it is the bams who make his life a misery and whom he needs a whole load of new powers to deter; for Commander Hewitt, it is the illegals. As we go through the Bill, let us wish Commander Hewitt and Chief Commissioner Miekelson all the best as they tackle these threats.

Chris Murray: Does the hon. Gentleman accept that although Commissioner Miekelson is a fictional character, the role was created by statute—by the SNP Scottish Government when they created Police Scotland?

10 am

Pete Wishart: Police Scotland has a chief constable who is in charge, but in “Scot Squad”, Commissioner Miekelson is a chief commissioner. It is only right that we point out these distinctions; there is a significant difference between that mythical, fictional character and the reality of the role of chief constable, which is very efficiently and effectively looked after by the current inhabitant of that post.

I know you want me to get on to the particular amendment, Dr Murrison, so thank you for your forbearance and patience. My amendment confirms that the,

“Commander must have full regard to...the Human Rights Act 1998; and...the Council of Europe Convention on Action against Trafficking”.

The Minister is likely to tell me that none of that is necessary as human rights compliance is already implicit with Government operations. However, without these explicit legal mandates and safeguards, all of that can be overlooked. If the Minister is asking us to agree to 12 clauses at the outset of a Committee for an important Bill, relating to a job that is already being done, surely we can agree that one of these functions should be about the observance of our very important international obligations under the Human Rights Act 1998 and the Council of Europe convention on action against trafficking in human beings.

I do not think anybody is opposed to the border commander; I know there are a few jokes about his comparison to Chief Miekelson, but all of us agree that the Minister is establishing a necessary and useful role. I do not think, even though she was trying to chide her Conservative colleagues, that there was much disagreement from anybody on whether this is a useful role that could help bring together quite a lot of the structure and infrastructure that is responsible for operating our border security. There is a discussion about a lot of his tasks being administrative. There is nothing wrong with that, but for something as important as this, everybody would like to think that where there is administration, it will be effective and put in place in a way that we could look at it.

However, we need further clarity on the roles, functions and responsibilities of the border commander. Clause 3 is supposed to be the place where we find all of those things, but the one thing that the clause does not do is outline fully, perfectly, roundly and coherently what the actual functions of the border commander will be. Even if we look very carefully in all the different subsections, it does not say much about what he is expected to do. It lists a number of administrative responsibilities he will have, which is fair and fine, but all of us discussing the role of the border commander in the Committee would like to understand what he will be doing—what are his jobs, what are his functions, what responsibilities will he have, how will these things be discharged, and how will he be open to the type of scrutiny that we, as Members of this House, require?

There are provisions that seem to speak about the functions without actually identifying any of them. The only place where we can find objectives in clause 3 is subsection (1), but they are only objectives to which the commander must have regard. That is important. It just says he must “have regard” to the particular responsibilities that are outlined in the subsections. Subsections (7) to (9) are particularly interesting because they seem to suggest that people smuggling and human trafficking to the UK are to be regarded as threats to border security. That seems fair enough; most of the Bill is about the perceived threat—disrupting networks and tackling the gangs that operate their vile trade across the channel.

Here is the thing: the people who board these boats are subject to the constraints imposed by these gangs and are at their mercy. They are controlled and reliant. Those people are totally and utterly ignored in the subsections in clause 3. Their realities—their need and right to seek safety, reunite with family and escape situations of extreme deprivation—are ignored, even

[Pete Wishart]

though they have everything to do with the responsibilities and functions of the commander. As a matter of principle, then, it is vital that the Bill should be amended so that the Border Security Commander has regard to objectives concerned with respecting human life and dignity, and that must include specific shared obligations to provide asylum to people fleeing persecution and to enable victims of human trafficking to have security and safety from their enslavement.

There are concerns that, if border enforcement strategies do not include these protections for vulnerable individuals and victims of modern slavery, trafficking victims will enter further cycles of exploitation. In prioritising enforcement over protection, as the Bill does almost exclusively, we risk wrongfully criminalising victims of trafficking and failing to identify those in need of urgent intervention—or, worst of all, sending them back to their exploiters. If we stand by our commitments under the Council of Europe convention on action against trafficking in human beings, the Bill should ensure that the commander respects those obligations too.

As we have discussed, the commander is a civil servant. I have taken no great view on that, and I listened carefully to the exchanges about the civil service role, but I have a couple of concerns in relation to my amendment 1 that I would like the Minister to address. The civil service code does not give a clear, enforceable duty to respect the UK's obligations under international law. I am pretty certain that the Minister will tell me that there is a general obligation to comply with the law and our international obligations, as that is expected and anticipated in everything that the Government do through all their responsibilities and actions.

However, I refer the Minister to the recent case in the High Court. That was, of course, *R (on the application of FDA) v. Minister for the Cabinet Office and others*. I think the Government actually won that court case, which meant that any of the civil servants who were involved in compiling regulations had to abide by the legislative context but did not have to oblige and comply with the international obligations. At best, it is unclear, so I ask the Minister to clarify: will the Border Security Commander, who will be a civil servant, always be obliged—totally and utterly—to fully respect all our international obligations, particularly those around the HRA and the ECAT?

Without those specific obligations in the Bill, the Border Security Commander will be presumed always to prioritise enforcement over vital legal protection, potentially leading to human rights violations. Although the commander is required to comply with instructions set by the Home Secretary, which again I think everybody would accept is right and appropriate, they are not explicitly required to comply with the UK's human rights obligations. For me, that is totally wrong, and it completely skews the whole modus operandi of our Border Security Commander and features of the Bill. I will come back to that as the Bill progresses.

We need to see this change to the Bill. We have 12 clauses and various subsections dedicated to the role and the functions of the commander. Let us have one—just one—that says that he must be prepared and obliged always to act in line with all of our obligations on international responsibility, being a good international

actor, being a place that is recognised for exemplary human rights requirements and being signed up to the HRA and to ECAT. Let us put that in the Bill.

Matt Vickers: I have not come across Chief Commissioner Miekelson before, but I will endeavour to catch up on Netflix or iPlayer.

Dame Angela Eagle: We are all going to be doing that.

Matt Vickers: Clause 3 sets out the functions of the Border Security Commander. The shadow Home Secretary, the right hon. Member for Croydon South (Chris Philp), correctly pointed out on Second Reading that the new Border Security Commander

“cannot actually command anything. There are no powers at all in the Bill, merely functions. They include, in clause 3, publishing a strategic priority document and, in clause 4, a duty to prepare an annual report...the Border Security Commander has no clear powers, merely an ability to publish documents and reports.”—[*Official Report*, 10 February 2025; Vol. 762, c. 69.]

According to the legislation, the functions of the commander

“must have regard to the objectives of...maximising the effectiveness of the activities of partner authorities relating to threats to border security, for the purpose of minimising such threats, and...maximising the coordination of those activities for that purpose.”

That sounds suspiciously like a co-ordinator, rather than a commander. That is exactly what the legislation states: the commander does not appear to be empowered by the Bill to command anyone.

Subsection (5) defines a partner authority as a

“public authority with functions in relation to threats to border security (whether exercisable in the United Kingdom or elsewhere)”, but—in subsection (6)—

“not...the Security Service...the Secret Intelligence Service” or “GCHQ”.

Will the Minister confirm what is meant by partner authorities? Does she have a list of likely organisations that the Border Security Commander should be able to direct co-operation with? How far does she think that the Border Security Commander will be able to have an impact on public authorities abroad? For example, what role might French law enforcement be expected to play in having regard to the commander's strategic priority document?

The Opposition have tabled amendment 13, which would enable the Home Secretary to direct other agencies to support the Border Security Commander's objectives and strategic priorities, specifically Border Force, Immigration Enforcement, police and crime commissioners and the National Crime Agency. Ideally, we would like the Border Security Commander to have a meaningful role and the ability to direct other agencies. As the Government seem unwilling to do that, however, we thought it might be possible for the Home Secretary to give the Border Security Commander a little support.

If the Minister does not want to accept amendment 13, I would like to understand why not. Why do the Government seem willing to allow the commander only to co-ordinate, rather than to command? Why could the Home Secretary not add some additional impetus?

The clause requires the Border Security Commander to issue a strategic priority document that sets out the principal threats to border security when the document is issued, and the strategic priorities to which partner authorities should have regard in exercising their functions in relation to any of the threats to the border identified by the commander. We have tabled amendment 12 to ensure that the strategic priority document supports the Home Office's UK border strategy. We are attempting to ensure that the Border Security Commander is aligned with the rest of the Home Office's work to secure the border. I am interested to understand why the Minister is not willing to accept that amendment.

Becky Gittins (Clwyd East) (Lab): It is a privilege to serve under your chairship, Dr Murrison. Given the representations made by the hon. Members for Stockton West and for Weald of Kent, something seems strange and I would appreciate an explanation. The hon. Member for Stockton West is speaking to amendment 12 and the necessity of supporting the Home Office's UK border strategy. Given the hon. Member's comments about the Border Security Commander having a role within the civil service, why does he want the commander to adhere to the Home Office's UK border strategy, which is headed up by a director general who is a civil servant?

Matt Vickers: If we are to have such a position, we want it to be effective and have the relevant powers, but we also want it to be aligned with the other priorities of the Home Office and the work going on there. I think that is clear.

Amendment 11 would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State before issuing the strategic priority document. We would like to understand the operational benefits of the Secretary of State having to sign off the strategic priority document, which again highlights the lack of a meaningful role for the Border Security Commander. Although the strategic policy document should set out what are, in the commander's view, the principal threats to border security and the strategic priorities to which partner authorities should have regard, in reality the document is a diktat from the Secretary of State about the Secretary of State's views, and that arguably exposes a lack of influence and gravitas in the Border Security Commander's role.

Allowing the commander to issue a strategic priority document without seeking prior permission from the Secretary of State would provide a welcome level of independence for the role. The oversight and consultation of the board would ensure confidence in the Border Security Commander's ability to take all necessary steps to stop the crossings. There may be occasions when the commander believes it is necessary to act swiftly and to implement changes without delay. Removing the requirement to have ministerial consent would allow them to act decisively. That approach, I am sure, could subsequently be supported by the Secretary of State.

Chris Murray: What, then, is the hon. Gentleman's view of how UKBA functioned? In her testimony, Theresa May said that, where it had that kind of independence, it became "closed, secretive and defensive", and she had to completely restructure UK border defence because the independence that the hon. Gentleman is talking about actually made it difficult for Ministers to have proper oversight.

10.15 am

Matt Vickers: When we talk about the Border Security Commander role, if we think it is going to "smash the gangs", sort out all these problems and play a huge part in creating a secure border for this country, it is important that we allow it some element of independence and gravitas. We have talked about the commander being tied into the strategic priorities of the Home Office, but this amendment is about empowering them to make the difference that we want them to make. We want them to succeed.

As I was saying, removing that requirement would allow the Border Security Commander to act decisively. We must avoid unnecessary bureaucratic wrangling and ensure that, in this critical matter, they have the freedom they need to deliver results.

Tom Hayes: I have two quick points. First, the hon. Member talked about whether the Border Security Commander could somehow command or direct the activities of our international partners. I would highlight that this Government have strengthened and created the new international arrangements that have made it possible for us to start to secure and securitise our borders. It is important not to pretend that the history of what has happened did not happen; we should realise that we need to have close international ties.

Secondly, I am listening closely to the hon. Member's suggestions for how the role could be improved. Is he proposing these amendments because the current office holder, Martin Hewitt, is not discharging the office in the way that he would like? Could he comment on whether he thinks that Martin Hewitt is doing a good job or a less-than-good job, and whether he thinks that the Border Security Commander role, as it is currently being discharged, is satisfactory?

Matt Vickers: At some point, Martin Hewitt will be superseded. We want to make sure that whoever is in this role is in the best possible position to do the best possible job. I do not think that these measures are necessarily about Martin Hewitt's effectiveness or otherwise; they are about this post and its fundamental role—well, its apparent fundamental role—in delivering border security for this country.

Tom Hayes: It is not about Martin Hewitt's professional competence or his ability as a person to do the role; it is about the role itself. Based on how the role has been configured, does the hon. Member believe that the present office holder is discharging the role well, with the responsibilities given, or is he proposing these measures because he believes that somehow the role is lacking?

Matt Vickers: I think there is an opportunity to strengthen this role so that it can provide that real fundamental change that we are apparently looking for in this Bill. I would not necessarily want to comment on the individual.

We have tabled new clause 21 to set out some clear and measurable objectives for the Border Security Commander, to attempt to give this co-ordinator some clear direction. New clause 21 would set out that, in exercising their functions, the commander "must have regard to the objectives of...preventing the boarding of vessels, with the aim of entering the United Kingdom, by persons who require leave to enter the United Kingdom but are

[*Matt Vickers*]

seeking to enter the United Kingdom...without leave to enter, or...with leave to enter that was obtained by means which included deception”.

In effect, we want it in black and white in the Bill that the commander will be given the objective of reducing illegal entry to the country, and that is what new clause 21 would achieve.

Since 2018, when the figures were first recorded, more than 150,000 people have arrived in small boats. As of 29 January, 1,098 people had crossed the channel since the start of 2025. In 2024 as a whole, 36,816 people were detected making the crossing. I would like to understand why the Government do not think it is worthwhile to give the Border Security Commander the direct objective of reducing or even ending those arrivals.

We also wish to ensure that those who arrive in this country illegally will not be able to stay. We know that effective returns agreements work as a deterrent. When in government, we cut the number of Albanian illegal migrants coming to the UK by small boat crossings by more than 90%, thanks to our returns agreement. In 2022, 12,658 Albanian illegal migrants arrived in the UK by small boat, but that fell to just 924 in 2023, following our landmark returns agreement with Albania.

We have therefore included in new clause 21 the objective for the Border Security Commander to ensure that a decision on a claim by a person who has arrived in the UK illegally is taken within six months of the person's arrival, and for the commander to make arrangements with a safe third country for the removal of people who enter the UK illegally. It is up to the Government to put in place an effective deterrent to people crossing the channel in small boats.

Mike Tapp: I find it quite astounding that there are any claims of success from the Opposition, given that we saw 299 people cross in 2018 and then an exponential rise of over 130,000 on the Conservatives' watch. The hon. Gentleman is talking about a deterrent, but four people went to Rwanda and over 80,000 people crossed when that scheme had been introduced.

Importantly, the whole system in the Home Office had completely ground to a halt. There is another deterrent that was overlooked by the Conservatives during their tenure, and that is having a process that actually functions. We now have record high deportations, and as that message cuts through to people who are looking to cross, it will start to serve as a deterrent.

Matt Vickers: I thought that we would get a bit further through the Bill before we got into records. In real terms, there has been a marked increase in the number of people coming here since this Government took office—small boat crossings are up by 28%. We now have 8,500 more people staying in hotels across the country—up by nearly 29%. We were closing hotels. The hon. Member talks about the number of people being deported, but they are voluntarily going back. In real terms, the number of people who have arrived on small boats being returned went down, and in the most recent figures, it has gone down again. We have not been sending back those people who have arrived in small boats since this Government took office—that is just not the case.

Mike Tapp: I thank the hon. Member for giving way again; I will not make a habit of it. It is important to realise that the processing of those who come into Western Jet Foil and then Manston takes time, but of course they will be deported, if they are not genuine refugees, once the system gets there.

It is also important to note something else. Being the Member of Parliament for Dover and Deal, I often look out across the sea, and I can tell when it is a good day to cross and when it is not. On those days when it is viable to cross, crossings have reduced. The Conservatives were relying only on the weather to bring down boat crossings.

Matt Vickers: I think, in the last week, we have found that the only thing that this Government are relying on is the weather, but I will carry on. I am sure we will come back to all these things in due course; it is good to be discussing them here instead of on a news channel somewhere.

As the Government are repealing the Illegal Migration Act 2023 and the Safety of Rwanda (Asylum and Immigration) Act 2024 with this Bill, we want to make sure that the Border Security Commander is empowered to ensure that all relevant agencies are working towards taking timely decisions on any claims by illegal immigrants, and removing those who enter the UK illegally.

Becky Gittins: I applaud the hon. Gentleman's comments about a timely turnaround in the processing of asylum claims—something that really concerns Government Members with regard to the IMA and the Rwanda Act. Could he tell me what proportion of asylum claims under the previous Government were processed within the six-month period stipulated in this new clause?

Matt Vickers: I could not, but I could tell the hon. Lady that the backlog is even bigger now than it was when this Government took office.

If the Government were serious about tackling illegal crossings and creating an effective deterrent, they would support new clause 21. We also want to make sure that the Border Security Commander is transparent with the public about how best to stop illegal and dangerous channel crossings, which is why this new clause includes a requirement for the commander to make an assessment of the most effective methods for deterring illegal entry into the UK, the most effective methods for reducing the number of sea crossings made by individuals without leave to enter the UK, and the most effective methods for arranging the removal, to the person's own country or a safe third country, of a person who enters the UK illegally. Again, if the Government were serious about protecting borders, they would support the new clause.

Clause 9 specifies that the Border Security Commander must

“comply with directions given by the Secretary of State about the exercise of the Commander's functions under this Chapter.”

Can the Minister explain what sort of guidance the Secretary of State is likely to want to give the commander? Can she explain how the Secretary of State wishes to exercise the powers in the clause?

The SNP's amendment 1 would confirm that the commander must have full regard to the Human Rights Act and the Council of Europe convention on action

against trafficking in human beings. Given that the commander's role, as drafted by the Government, includes no real power or responsibility, I am not sure what that amendment would actually achieve.

Susan Murray (Mid Dunbartonshire) (LD): It is a pleasure to serve under your chairmanship, Dr Murrison. The Liberal Democrats would like to introduce new clause 7, because we want to strengthen cross-border co-operation and Britain's role in that process. We also believe that we need to reverse some of the last Government's roll-back of provisions to tackle gangs involved in modern slavery. The new clause would require the border commander to meet the executive director of Europol every three months, which would help to achieve those goals.

Chris Murray: Before I was elected and before Brexit, I was the justice and home affairs attaché at the British embassy in Paris. I helped to co-ordinate engagement between the Home Office, the French Government and Europol. I do not know how much the hon. Lady knows about how Europol functions, but it has a lot of operations and is a very busy organisation. It would frequently take us more than three months to arrange a meeting. Would the new clause not put civil servants at risk of breaching the law just because they could not set up a meeting fast enough?

Susan Murray: That is a really important point. If the new clause were accepted, civil servants would perhaps have to look at ways to schedule meetings in advance so that they were not done on an ad hoc basis.

Sarah Bool (South Northamptonshire) (Con): It is a pleasure to serve under your chairmanship, Dr Murrison. If the role of the Border Security Commander is ultimately to be successful, there needs to be confidence in its efficacy. The title of clause 3 is "Functions of the Commander", but headings in law are often not necessarily reflected in the interpretation, and the clause does not fully do what it sets out to achieve. As the hon. Member for Perth and Kinross-shire highlighted, it does not actually set out exactly what the functions are. It sets out that the commander has functions, and that they "must have regard to the objectives of...maximising the effectiveness of the activities of partner authorities"—

which I assume would include Border Force—and

"maximising the coordination of those activities".

As Migrant Voice and Amnesty International said during evidence, it seems that the role of the border commander involves little more than administration, and I am concerned about what they will actually do. Even with the objective of issuing a "strategic priority document", all they have to do is set out the principle threats to border security and the strategic priorities.

I have a genuine question about the efficacy of the border commander. First, border security goes beyond just migration; it also relates to our biosecurity, as mentioned in the Environment, Food and Rural Affairs Committee the other day. Border Force highlighted that it deals with numerous issues, including breaches of rules on personal imports. That means that illegal meats are coming into the country, which is a real concern for our border security.

I am concerned about what the border commander will be able to do. Border Force actually needs help with monitoring imports and safely disposing of illegal meats, but it seems that the border commander will be able only to pull together Border Force groups and get them to talk about the problem or list potential threats. We know what the threats are; we just need action, as Border Force itself has called for. It needs more powers.

My concern is that the establishment of the border commander, although an interesting approach, will not actually solve the problems that need solving right now. Perhaps the Minister could address what the border commander will be able to do in that regard.

10.30 am

Dame Angela Eagle: I think Chief Mielson will be on all our lists now. I spend the small amount of time I have in life to twiddle my thumbs looking for new detective dramas, and it seems I have overlooked one. I have been too into Scandi noir, when I should have been into Scottish noir. I will talk to the hon. Member for Perth and Kinross-shire after the sitting to see whether he can give me a little more detail, so that I can follow up for my own enjoyment.

This group contains various provisions relating to the Border Security Commander, including amendments 11 to 13 and new clause 21 from the official Opposition, and new clause 7, which the hon. Member for Mid Dunbartonshire spoke to. It also contains amendment 1, with which the hon. Member for Perth and Kinross-shire opened our proceedings on this group. In our earlier exchange, he and I reflected on how long in the tooth we both are. So experienced is he that he anticipated what my answer to his amendment would be, and his comments show that he has a coherent and experienced view of the way in which human rights law works. If we had to list in every single bit of primary legislation the treaties we had solemnly entered into, and the international agreements that we had, in many cases, helped to formulate and that we had then put into effect in our own law, we would have an even messier statute book than we have at the moment.

Amendment 1 seeks to ensure that the commander has full regard to the Human Rights Act 1998 and the Council of Europe convention on action against trafficking in human beings while carrying out all his functions. Both pieces of international agreement and law were freely entered into by predecessor Governments, and we take them extremely seriously as a law-abiding Government who believe in the rule of law. The Border Security Commander will be a public authority within the meaning of section 6 of the Human Rights Act, and must act compatibly with the Act. That is absolutely the case. It is not explicitly written into the Bill, as the hon. Gentleman's amendment would require, but that does not mean that all the requirements in the two agreements that amendment 1 mentions will not be adhered to.

Pete Wishart: Before I put my question to the Minister, I will just say to the Committee that "The Chief" is available on iPlayer, if they want to enjoy the eight episodes that will come their way.

Dame Angela Eagle: Not in the room though.

Pete Wishart: Perhaps not—I am sure you would have a few words to say about that, Dr Murrison.

[Pete Wishart]

I did anticipate the Minister's response, but I do not think there is anything wrong with ensuring that our commitments to international operations and to the whole force of human rights across the world—things we agree on—are in the Bill. We saw with the previous Government how easily international obligations and the international rule of law can be set aside and torn up. We are asking for these things to be in the Bill to give us security and a guarantee that the border commander will pay attention to them. If the commander is not compelled to do that by statute, there will be no obligation whatsoever.

Dame Angela Eagle: The hon. Gentleman can be assured that everything the commander does must be compatible with our obligations under the Human Rights Act and the Council of Europe convention on action against trafficking in human beings. Those things are implicit with every public office holder in the UK, in all the contexts in which they work. The fact that those things are implicit, and not explicitly in the Bill, does not undermine the commitment of any Government who want to act within the rule of law. One of the first things our current Prime Minister said when he walked through the door at Downing Street was that we would be a Government who respected the rule of law and the Human Rights Act.

Chris Murray: The most comparable piece of legislation on this topic in a devolved context is the Human Trafficking and Exploitation (Scotland) Act 2015. That Act does not require a clause that specifies the obligation to respect international law. Those things are implicit in legislation passed by the Scottish Government, even on this topic.

Dame Angela Eagle: My hon. Friend is exactly right. Under section 6 of the Human Rights Act, all office holders implicitly have to follow the rules of the European convention on human rights. One issue, if we decide to move away from the current approach and start to include an explicit provision in particular Bills—as the amendment in the name of the hon. Member for Perth and Kinross-shire would—is that it might look like the implicit duty to adhere to these agreements does not apply if it is not stated explicitly. That would actually lead to a lessening of protections, if judges looking at what Parliament was legislating for decided that we must take account of section 6 of the Human Rights Act only if we put that in a Bill. We would end up in a worse situation.

I ask the hon. Member to accept that the structure in the Bill is the one we have used so far. I understand why he is sceptical, after the behaviour of the last Government, but I hope he accepts, given the Prime Minister's pronouncements right from the beginning of this Government taking office, that we are not planning on undermining the Human Rights Act or its provisions.

Pete Wishart: I do not like having to correct the hon. Member for Edinburgh East and Musselburgh, who is usually very diligent on these matters, but the Human Trafficking and Exploitation (Scotland) Act 2015 is fully compliant with human rights legislation. That fact is included in the Act, as it is in practically every Act passed by the Scottish Parliament.

Dame Angela Eagle: I am not massively familiar with the Scottish statute book.

Chris Murray: On that point, the 2015 Act does refer to the Council of Europe protections and its definitions are taken from there. But there is not a clause that says that due regard has to be given—

Pete Wishart: It is completely and utterly compliant.

Chris Murray: But in an implicit way, just as this Bill is. There is nothing on the face of the Act, in the way the hon. Member is proposing for this Bill.

Dame Angela Eagle: I feel I ought to intervene and separate the combatants. I reassure the hon. Member for Perth and Kinross-shire—especially given the pronouncements from some in the previous Government—that this Government are absolutely committed to the provisions of the Human Rights Act and the convention on action against trafficking in human beings. I hope he accepts that and will withdraw his amendment.

Amendment 12 seeks to ensure that the strategic priority document produced by the Border Security Commander is supportive of the Home Office's UK border strategy. Border security is a fundamental part of the strategic approach to the wider border, and the strategic priorities for border security will help to drive the wider UK approach. They are part of the approach—they are not a threat or a counter to it. The strategic priority document will be consulted on at the board—which the Committee will discuss when we reach clause 6—which has representatives from across the border security system, to ensure alignment with wider strategic approaches to the border. The whole point of the Bill is to cohere and convene and to ensure that there is co-operation across complex systems; it is not to disintegrate systems. Therefore, it would be fairly astonishing if the border security strategy was somehow completely at odds with what the Border Security Commander and the wider system were planning.

Amendment 13 seeks to give the Border Security Commander the power to direct the specified law enforcement bodies and personnel in the delivery of his objectives and strategic priorities. The power to direct—what the hon. Member for Stockton West called “empowerment”—is not required. During last week's oral evidence, we heard from representatives of the National Crime Agency and the National Police Chiefs' Council that they welcome and value the collaboration to date with the Border Security Commander. The arrangements as provided for in the Bill will reflect and respect the operational requirements of the various board members. They are a balancing act between convening, collaborating and co-operating, and a way of ensuring that those who have some independence written into what they have to do in other areas feel not that they are being made “subject to” but that they are “collaborating with”. The most effective commanding is exactly that: it is done with co-operation; it is not done with dictatorial powers or attempts to undermine the independence of other organisations.

Under clause 5, partner authorities already have a duty to co-operate with the commander, in so far as it is reasonably practicable for them to do so. Under clause 3,

partner authorities must have regard to the strategic priorities on which the board will be consulted and which will be endorsed by the Secretary of State, as set out in clause 4(b). Amendment 11 would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State to issue a strategic priority document.

My hon. Friend the Member for Edinburgh East and Musselburgh has already pointed out that an obsession with complete independence can actually fragment a system and make it harder for us to achieve outcomes by working together. He rightly mentioned that, where there is operational independence and we are trying to make a system work in co-operation, that can sometimes lead to cultures of secrecy and non-co-operation, rather than co-operation that focuses on objectives.

In the Bill, we wish to foster co-operation that focuses on very defined objectives and strategies. The Government believe that that is the best balance. Allowing the Border Security Commander to publish documents behind the back of the Home Secretary, for whatever reason he or she may think fit, is not exactly fostering a co-operative working environment or an environment that is likely to be successful. We believe that the way in which these things are expressed in the existing clauses is more likely to foster agreement.

As already discussed, the strategic priority document provided for in clause 3(2) will set out the principal threats to border security when the document is issued, as well as the strategic priorities to which partner authorities should have regard in exercising their functions in relation to any of the identified threats. The role of the Border Security Commander is to support the Government of the day, and it is therefore only right that Ministers and the Secretary of State endorse the strategic direction and collective response of this public authority in relation to border security.

The hon. Member for Stockton West seemed to want to give the Border Security Commander powers to do things and to remove the requirement for ministerial consent for whatever they wanted to do. That seems to set up the Border Security Commander in a more powerful position than Ministers, which seems an odd thing for a Member of Parliament and a shadow Minister to wish to do. We think that the right way of ensuring accountability for the way these things are done is to have ministerial involvement, rather than set up operational structures that are so independent of Ministers that people want to do things behind Ministers' backs.

10.45 am

New clause 7 would introduce a requirement for the Border Security Commander to meet the director of Europol or their delegate every three months. That requirement would be in primary legislation; it would stay there for many years to come, and it could not be changed. Even if Europol were to evolve into something completely different, what the hon. Member for Mid Dunbartonshire has suggested would mean that the Border Security Commander still had to meet what might be a defunct organisation. I have considerable sympathy with what she is trying to achieve, but I do not think that we need to specify in such a particular way in the Bill—in primary legislation—what the commander should do.

I can tell the Committee that the commander has been busy meeting all sorts of people across Europe and beyond about operational co-operation, including Europol, Frontex and some of our colleagues in European Union countries who have operational requirements to deal with cross-border organised immigration crime, and he will continue to do that as part of the strategy he develops. It would be onerous and possibly less effective for that to be specified in the Bill.

Susan Murray: The Minister makes good points about the practicalities. It is good to hear that she recognises that the Liberal Democrats are simply trying to ensure that we have international influence and cross-border activities.

Dame Angela Eagle: I can certainly assure the hon. Lady that I recognise the import of what she is trying to do with the new clause. Often, such proposals are hooks to hang a debate on, so that there can be a little more information about the Government's intent. I can assure her that having close operational and diplomatic liaison across all the different structures we have to work with to deal with cross-border immigration crime is absolutely at the centre of what the Border Security Commander will want to do. When we come to it, I hope she will not press her new clause to a vote.

Matt Vickers: The contrast is interesting. The Opposition want to see a Border Security Commander independently empowered to make meaningful changes to secure the border, rather than another civil servant muted by political oversight. There is a big contrast in perspective in terms of whether a Home Secretary should be signing off on anything anyone in this huge role—which will make a difference to our borders—will be able to say. Secondly, I would like to understand why the Government do not think it worth the Border Security Commander having the objective of reducing or even ending small boat crossings.

Dame Angela Eagle: It is quite revealing that the hon. Gentleman seems to think that the natural order of things is for Ministers to be at loggerheads with civil servants and the people who are operationally charged with delivering on objectives. That may say more about Opposition Members than about the way we are seeking to achieve operational effectiveness and objectives in what we are doing.

Finally, new clause 21 focuses on the Border Security Commander's functions in relation to tackling small boat crossings to the UK. This is an all-encompassing new clause, which goes far beyond the commander's functions as set out in the Bill. The new clause seems to want the commander to be all things to all people.

The immediate priority is organised immigration crime-enabled small boat crossings. The Border Security Commander will, and necessarily must, evolve over time to provide the systems leadership across all threats as they emerge. Such crossings did not really emerge until 2018, but they have become embedded and more of a threat over time. Had we been discussing something like this in 2017, small boat crossings would not have featured at all. It is therefore important that our legislation allows the Border Security Commander to change approach or focus as new threats emerge. Threats evolve and change over time. Our approach accounts for that by stipulating in legislation that the Border Security

[*Dame Angela Eagle*]

Commander has particular objectives that might be important now but less important in the future. The new clause seems to me to present an overly difficult and inflexible way of moving forward.

Katie Lam: Presumably, it would always remain an objective to bring an end to illegal migration, as far as is practical?

Dame Angela Eagle: Yes.

I was going to talk about what new clause 21 suggests we should do. For example, the subsection on asylum processing seems to say that the Border Security Commander should somehow take over the duty to ensure that those who arrive illegally are processed within six months—something that the Conservatives did not achieve at all during their time in Government. I am not certain why the Border Security Commander should be empowered to take over the entirety of the asylum system.

Next, the new clause states that the commander should also be in charge of immigration enforcement, and that they should do removals as well as asylum processing and defending the border. The authors of the new clause seem to think that the Border Security Commander should be not only independent, but virtually all-seeing, all-singing and all-dancing, and that they should do absolutely everything with which the entire immigration and asylum system is currently charged. That is overreach, to say the least.

The new clause also suggests that the commander should remove people to a safe third place within six months for processing. In all their years in office, the Conservatives never managed to achieve any of those things. To put them into a new clause for a Government that has been in office for seven months—a Government who were left with the most appalling mess, with an asylum system that had crashed and had massive backlogs, and with a structure in the Illegal Migration Act that made it illegal for us to process any new arrivals who claimed asylum after March 2023—and to complain that we have not sent small boat arrivals home fast enough takes the biscuit.

Sarah Bool: I think the intention behind the new clauses, as has been identified, is to give the Border Security Commander more teeth to help him to do what he is supposed to do. Although I appreciate that behind the drafting of the Bill is a recognition that the commander might need to be reactive in future, the new clauses aim to reduce the number of illegal migrants; that is what we are all trying to tackle. When the Border Security Commander can only do things such as

“maximising the effectiveness of the activities of partner authorities”, “maximising the coordination” and issuing reports, it does not give us confidence that the commander has the necessary power or that we will see the results that the Government are trying to achieve.

Dame Angela Eagle: It is fairly astonishing to have a new clause that puts the Border Security Commander in charge of the entire asylum and deportation systems and asks him, in legislation, to achieve processing times

that the Conservative party never achieved when they were in Government. It falls into the trap of empowering the Border Security Commander to such an extent that he seems to have to take over most of the Home Office. That is not really what we intend to do with this Bill. New clause 21 would result in a fairly astonishing increase in not only the power, but the reach of the Border Security Commander. That would be massively disruptive and would probably lead to an outcome similar to the collapse of the asylum system, of which we have had to clean up the mess.

Mike Tapp: I think the new clause is more of a political point than a constructive addition to the Bill. I am new to Parliament, but I think Bill Committees can be really useful. This new clause is far from useful, however, and there is nothing constructive in it. It is unrealistic and feels like political point-scoring.

Dame Angela Eagle: Not for the first time today, I agree with my hon. Friend. When the time comes, we will be voting against this new clause.

Katie Lam: The Minister perhaps slightly mischaracterises new clause 21. It states that the Border Security Commander should “have regard to”, not manage, the wider aims of the Home Office in securing the border. Why would the Minister not want the Border Security Commander to have regard to that?

Dame Angela Eagle: New clause 21(1)(c) talks about: “making arrangements with a safe third country for the removal of a person who enters the United Kingdom without leave, or with leave that was obtained by deception” and new clause 21(1)(b) mentions:

“ensuring that a decision is taken on a claim by a person under subsection (1)(a) within six months of the person’s arrival in the United Kingdom”.

If that is not asking the Border Security Commander to take over the workings of the asylum system, I am not sure I understand what the new clause is trying to do.

Katie Lam: The new clause clearly does not do that. The two points that the Minister just mentioned are part of a broader sentence that states that the Border Security Commander

“must have regard to the objectives”

in subsection (1). The new clause does not state that the Border Security Commander should do those things themselves.

Dame Angela Eagle: But how on earth could asking the Border Security Commander to have regard to those things lead him or her to deal with border security? The new clause would take away the focus in the current Home Office arrangements on immigration enforcement and the asylum system. The new clause says that the Border Security Commander must have regard to all the processes in areas of the Department they have nothing to do with. It would upend working relationships. It would make it impossible and incoherent to deliver any kind of—

Tom Hayes: This is my third Bill Committee, and so far I am really enjoying it. In all three Bill Committees, I have sensed something interesting; my understanding of what the Conservative party has been does not quite coincide with what it is today. It feels peculiar to hear Conservative Members asking for this role to have so many teeth and being so prescriptive about writing that into primary legislation. As I understand it, Conservatives typically used to try to minimise the amount of detail in primary legislation, in order to give the arms of the state the freedom to do their duties and enact their responsibilities properly.

That is particularly important when we are living through a time of significant volatility. The complications surrounding our immigration and asylum system are manifold, so we need to give this role significant flexibility in order that the Border Security Commander can co-ordinate command. I am struck by what seems to be almost an existential challenge at the heart of modern Conservative thinking.

11 am

Dame Angela Eagle: I think, Dr Murrison, you would probably not be very pleased with me if I started to talk about existential challenges at the heart of Conservative thinking, much as I would like to do so. I hope that I have given some reasons why new clause 21 should not stand part of the Bill.

Pete Wishart: I thank the Minister for her full response to some of my concerns about compliance with international obligations. Something that she did not respond to, and that I am really keen to secure her views on, is the *FDA v. the Cabinet Office* High Court case during the Rwanda litigation, which the Government obviously won. It seemed to suggest that any civil servant would not be bound by international obligations. Where does that leave the Border Security Commander?

Dame Angela Eagle: The Prime Minister made it clear right at the beginning of his time in office that the Government will be bound by the international obligations that we have signed up to. I hope that gives the hon. Gentleman—*[Interruption.]* Well, he is a sceptical man, as I would expect, but I have said what I have said about that. Is he suggesting that we should change the law as a result of the High Court?

Pete Wishart: My concern is that the judgment in that court case significantly changed our approach to international obligations and the rule of law. All I am interested in knowing is whether the Minister has any concerns, given such a significant and dramatic shift in the way successive Governments have approached these issues. Will that have any bearing on the operation of the Border Security Command?

Dame Angela Eagle: As I said earlier, the Border Security Commander and the Border Security Command will work within the confines of international obligations and human rights law.

Mike Tapp: I apologise for my lack of timely bobbing earlier, Dr Murrison. I draw attention to the Home Secretary's statement at the very top of the Bill:

“In my view the provisions of the Border Security, Asylum and Immigration Bill are compatible with the Convention rights.”

That adds to what the Minister has said: that those in public office have an obligation to abide by the law. If they were not to do so, there would of course be legal challenge.

Pete Wishart: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Does the shadow Minister wish to press any of his amendments to a vote?

Matt Vickers: If we are to have a Border Security Commander, we want an effective one who can publish a strategy without being subject to a political veto, who has priorities aligned to the UK border strategy, and whom Home Secretaries can direct agencies to follow. We wish to press the amendments to a Division.

Amendment proposed: 12, in clause 3, page 2, line 36, at end insert—

“(2A) The strategic priority document issued under subsection (2) must support the Home Office’s UK Border Strategy.”—*(Matt Vickers.)*

This amendment would require that the Border Security Commander’s strategic priority document supports the UK Border Strategy.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 1]

AYES

Bool, Sarah
Lam, Katie

Vickers, Matt

NOES

Botterill, Jade
Eagle, Dame Angela
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Mullane, Margaret

Murray, Chris
Murray, Susan
Stevenson, Kenneth
Tapp, Mike
White, Jo
Wishart, Pete

Question accordingly negated.

Amendment proposed: 13, in clause 3, page 2, line 36, at end insert—

“(2A) The Home Secretary may give direction to Border Force, Immigration Enforcement, Police and Crime Commissioners (PCCs) and the National Crime Agency to support the Border Security Commander in the delivery of the Border Security Commander’s objectives and strategic priorities.

(2B) The Home Secretary’s powers under subsection (2A) must not be used to interfere with the democratic mandate of the PCC within a force area, nor seek to interfere with the office of constable or operational independence of the chief constable or the operational independence of the National Crime Agency, unless the Home Secretary is satisfied on the advice of HMICFRS that not to do so would result in a police force of the National Crime Agency failing or national security being compromised.”—*(Matt Vickers.)*

This amendment would enable the Home Secretary to direct other agencies to support the Border Security Commander’s objectives and strategic priorities.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 2]

AYES

Bool, Sarah
Lam, Katie

Vickers, Matt

NOES

Botterill, Jade
Eagle, Dame Angela
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Mullane, Margaret

Murray, Chris
Murray, Susan
Stevenson, Kenneth
Tapp, Mike
White, Jo
Wishart, Pete

Question accordingly negated.

Amendment proposed: 11, in clause 3, page 2, line 41, leave out subsection (b).—(*Matt Vickers.*)

This amendment would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State before issuing the strategic priority document.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 3]

AYES

Bool, Sarah
Lam, Katie

Vickers, Matt

NOES

Botterill, Jade
Eagle, Dame Angela
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Mullane, Margaret

Murray, Chris
Murray, Susan
Stevenson, Kenneth
Tapp, Mike
White, Jo
Wishart, Pete

Question accordingly negated.

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

The Chair: With this it will be convenient to consider clause 9 stand part.

Dame Angela Eagle: Clauses 3 and 9, taken together, outline the functions of the Border Security Commander and the directions given to the commander by the Secretary of State. Clause 3 ensures that the commander has the ability to bring partners together to provide an authoritative source of information on priority and emerging threats to border security. Through the strategic priority-setting process, the commander, working collaboratively with partners and with consent from the Secretary of State, will have the authority to issue strategic priorities on border security, to which partners must have regard. That creates a new mechanism to ensure that there is a whole of Government understanding and a collective response to border security threats.

The provisions of clause 3 recognise the varied responsibilities of partners, and deliberately ensure that the duty does not prevent partner authorities from exercising their existing constituted mandates or from

setting their own wider priorities. The UK intelligence community are exempted from definition as partner authorities, in order to ensure that they can carry out their functions without constitutional conflict. However, UKIC will continue to work closely with the Border Security Command on border security matters, and arrangements are being developed, and will be agreed by the Home Secretary and Foreign Secretary, to ensure that that takes place. Such arrangements are required by clause 5.

Clause 9 builds on that by ensuring that the Secretary of State can hold the Border Security Commander to account for the delivery of improved border security outcomes. As an elected official, the Secretary of State is accountable to the Cabinet and to Parliament, and can assure that the actions of the commander are being carried out in the interests of the British public.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

DUTY TO PREPARE ANNUAL REPORTS

Pete Wishart: I beg to move amendment 2, in clause 4, page 3, line 37, at end insert—

“(c) set out how the Commander has fulfilled the Commander’s duties under section 3(1A) of this Act to have full regard to the Human Rights Act 1998 and the Council of Europe Convention on Action against Trafficking in Human Beings.”

This amendment is linked to and consequential upon Amendment 1, and would require the Commander to include in the annual report information about how they have paid due regard to the Human Rights Act and the European Convention on Action against Trafficking.

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

Amendment 14, in clause 4, page 3, line 37, at end insert—

“(c) state the number of persons who have, since the later of the passing of this Act or the last annual report, been—

- (i) charged with offences under sections 13, 14, 18, and 43 of this Act; or
- (ii) convicted of offences under sections 13, 14, 18, and 43 of this Act;
- (iii) identified as entering the United Kingdom via sea crossing without leave to remain;
- (iv) detained pending deportation or a decision on deportation;
- (v) deported to a country of which the person is a national or citizen; or
- (vi) deported to a country or territory to which there is reason to believe that the person will be admitted.”

This amendment would place a duty on the Border Security Commander to include, in their annual report, figures on immigration crime, sea crossings, detentions and deportations.

Clause stand part.

Pete Wishart: I will not detain the Committee for long. Amendment 2 covers the same sort of terrain as my amendment 1, which sought to ensure that the Border Security Commander takes cognisance of international obligations, most notably in relation to human rights and the provisions of the European convention on action against trafficking. Amendment 2 would require the commander, when making the annual

report, to make reference to his compliance, in the work that he has done, with the Human Rights Act and with ECAT. That is all I am asking. There is no good reason why that cannot be included as part of the commander's annual accounting to the House of Commons. That would give us an opportunity to understand how part of his work has been in ensuring that those obligations have been met, and I think it would be a worthy inclusion in his annual report. I commend the amendment to the Committee.

Matt Vickers: Clause 4 would give the Border Security Commander a duty to prepare annual reports, which must state how the commander has carried out their functions in that financial year and set out the commander's view on the performance of the border security system that year, with particular reference to the commander's strategic priorities. That all seems very vague, and a case of the Border Security Commander being allowed to mark their own homework.

Can the Minister explain what success would look like for the Border Security Commander? What are the measurable key performance indicators that the Home Secretary will consider? That is important because the Secretary of State, as set out in clause 2, can dismiss the commander. What would constitute poor enough performance for that to happen, and what would be a success?

To try to inject some objectivity and accountability into the process of annual reports, we have tabled amendment 14. We would like the Border Security Commander to report on the number of persons who have, since the later of the passing of the Bill or the last annual report, been charged or convicted of offences under clause 13, "Supplying articles for use in immigration crime"; clause 14, "Handling articles for use in immigration crime"; clause 18, "Endangering another during sea crossing to United Kingdom"; or clause 43, "Articles for use in serious crime". We want to know how effective the new offences will be in practice for achieving the Government's aim of stopping illegal immigration.

The Government's own impact assessment admits that very few people will go to prison as a result of the measures in the Bill. On the proposals to strengthen and improve the function of serious crime prevention orders, it says:

"It is estimated that between zero and three prison places, with a central estimate of one prison place will be required per year once the steady state is reached."

On introducing an interim serious crime prevention order, it says:

"It is estimated that between 0 and 1.54 prison places, with a central estimate of 0.2 prison place will be required per year once the steady state is reached."

On serious and organised crime articles, it says:

"It is estimated that between four and six prison places, with a central estimate of five prison places will be required per year once the steady state is reached."

On new offences to criminalise the making, adapting, importing, supplying, offering to supply and possession of articles for use in serious crime, it says:

"It is estimated that between four and six prison places, with a central estimate of five prison places will be required per year once the steady state is reached."

It is important to report on the new offences relating to immigration crime, which the Government think will not send a meaningful number of people to prison, and also on the new offence of endangering lives at sea, for which the impact assessment includes no estimate. Can the Minister confirm how many people the Government expect each year to be arrested, convicted and imprisoned under the new offence of endangering lives at sea?

Tom Hayes: I am wondering about the intent behind that question. Is the hon. Member concerned about the availability of prison spaces?

Matt Vickers: We want to see how effective the offences will be. The Government have set that out in part, but not for the new offence of endangering lives at sea, which has great consequence.

Amendment 14 would also require the Border Security Commander to report on the number of people identified as entering the United Kingdom via sea crossing without leave to remain; how many of them are detained pending deportation or a decision on deportation; and how many are deported to a country of which the person is a national or citizen, or to a country or territory to which there is reason to believe that the person will be admitted. We believe it is important to have transparency about the role of the Border Security Commander in facilitating removals. If they are charged with minimising threats to the border, removing those who enter this country illegally with no reason to remain is a big part of successfully achieving that objective.

Mike Tapp: It is important to note that measures of success can change. Legislating for that might mean that, in a decade, we are wasting the time of the Border Security Command and its commander. My understanding of statistics and their collection is that that is for the Home Office and the Office for National Statistics. Of course, as those who are prosecuted go through the courts, we will all be able to see that.

There may also be a slight misunderstanding about what a prevention order is and what it aims to do. It is a disruptive measure that can be used before charge to stop the vile smuggling criminals from operating. If and when they go to prison, that means that they have breached that order. The fact that the estimate is low means that there is confidence in the prevention orders succeeding.

Sarah Bool: To follow up on the points of the shadow Minister, my hon. Friend the Member for Stockton West, the duty to prepare annual reports feels like a self-appraisal. Essentially, all the commander has to do in those annual reports is state how they have carried out their role and set out their view on the performance. We need some more evidence. In appraisals in any work context, it is always necessary to have the opposite feedback, but I feel that is missing here. It is not clear that there will be an opportunity to challenge the information that comes in front of the House. We really need the detail.

I worry that the fact that the Government are not prepared to require the Border Security Commander to include these details of their work in their annual report is a sign that they do not have confidence in what the commander can do, so our amendment is very important. The hon. Member for Dover and Deal said that he is

[Sarah Bool]

worried that it will be burdensome, but I think that the information it would require is the minimum that should be provided to us. That information should be happily supplied to the House in the interest of transparency, and I am sure the Minister is keen to do that. That needs to be considered, and perhaps she will address that.

11.15 am

Dame Angela Eagle: Amendment 2, tabled by the hon. Member for Perth and Kinross-shire, would require the Border Security Commander to clearly outline how they have paid due regard to the Human Rights Act and the European convention on action against trafficking by including that information in the annual report that is laid before Parliament. As discussed when we debated amendment 1, the Border Security Commander will be a public authority within the meaning of section 6 of the Human Rights Act, and must act in compatibility with the human rights legislation. The commander will be aware of the risks in relation to trafficking and modern slavery through their work, and will continue to comply with the obligations, as part of the Government, under the European convention on action against trafficking in human beings. Therefore, it is unnecessary to detail explicitly that that should be in the report. That does not mean that it will not be, as the hon. Member for Perth and Kinross-shire recognised when he withdrew amendment 1. He has made his point powerfully.

Amendment 14 would create a requirement for the Border Security Commander to include in the annual report a range of statistics relating to the new offences created by the Bill, and wider relevant statistics in relation to irregular entrants who have arrived via a sea crossing, and to deportations. The amendment proposes that the annual report must state how the commander has carried out the functions of their office in the financial year, and set out the commander's views on the performance of the border security system, with particular reference to the strategic priorities that have been set.

The clause envisages that the report will be laid before Parliament and published. That will provide public and parliamentary accountability for the work of the Border Security Commander across all threats, although the strategic priorities may change over time as the threats against which the commander will need to report evolve.

Amendment 14 in the name of the hon. Member for Stockton West is quite prescriptive about what should be in the report, and includes a range of statistics. In the UK, we have quarterly publication of immigration statistics, which are organised by the Home Office and under the code of practice of the independent UK Statistics Authority. Statistics are regularly made available about what is going on in this area. The hon. Gentleman wants such statistics to be published, under statute, in the annual report that the commander puts before Parliament but, with all due respect, I think it is important that the commander is able to write his report himself without primary legislation directing him what to put in it, especially given that those statistics are regularly made available and are well looked at and reported upon. What the hon. Gentleman is suggesting is cumbersome and would not assist in ensuring that we have parliamentary and public accountability for the commander's performance.

The hon. Gentleman also quoted from the assessments of the number of prison places that would be created by the new crimes that we will talk about when we debate subsequent clauses. I am not sure what he does not understand about serious crime prevention orders or interim serious crime prevention orders. The idea of some of the new powers—the counter terror-style powers, which we will talk about in due course—is that they will prevent crossings and crimes from happening in the first place. They will allow the police and the National Crime Agency to intervene much earlier and to stop crime happening. In those circumstances, there may be a lesser sentence rather than a prison sentence, but lives would be saved and exploitation would be prevented. That is the nature of counter terror-style powers.

I hope that the hon. Gentleman will accept that the annual report will allow public and parliamentary accountability for the work of Border Security Command and that he will not press his amendment, as it would create too inflexible an annual report for the commander, with too much outside interference through primary legislation.

Pete Wishart: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 14, in page 3, line 37, at end insert—

- “(c) state the number of persons who have, since the later of the passing of this Act or the last annual report, been—
- (i) charged with offences under sections 13, 14, 18, and 43 of this Act; or
 - (ii) convicted of offences under sections 13, 14, 18, and 43 of this Act;
 - (iii) identified as entering the United Kingdom via sea crossing without leave to remain;
 - (iv) detained pending deportation or a decision on deportation;
 - (v) deported to a country of which the person is a national or citizen; or
 - (vi) deported to a country or territory to which there is reason to believe that the person will be admitted.”.—
(*Matt Vickers.*)

This amendment would place a duty on the Border Security Commander to include, in their annual report, figures on immigration crime, sea crossings, detentions and deportations.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 4]

AYES

Bool, Sarah
Lam, Katie

Vickers, Matt

NOES

Botterill, Jade
Eagle, Dame Angela
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Mullane, Margaret

Murray, Chris
Murray, Susan
Stevenson, Kenneth
Tapp, Mike
White, Jo
Wishart, Pete

Question accordingly negatived.

Clause 4 ordered to stand part of the Bill.

Clause 5

DUTIES OF COOPERATION ETC

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

Dame Angela Eagle: Clause 5 places a duty on partner authorities to co-operate with the commander in the carrying out of their functions. The commander is tasked with maximising the effectiveness of our collective response to border security threats, which requires a whole of Government response and will be enabled by the clause. It is recognised that partner authorities have wide-ranging functions that extend well beyond tackling border security threats. The duty set out in the clause extends only so far as is appropriate and compatible with partner authorities' other functions. That ensures that partners across the system are working in lockstep to enhance border security, while continuing to enable the vital work undertaken by partners beyond border security matters.

Matt Vickers: Clause 5 provides that a partner authority has duties, so far as is "appropriate and reasonably practicable," to co-operate with the commander in carrying

out the commander's functions. It would be helpful if the Minister explained what the Government mean by "so far as appropriate and reasonably practicable"

and under what circumstances it might be justified for a partner authority not to co-operate. Does it mean, as per subsection (2), that the partner authority would co-operate only so far as the co-operation was compatible with the exercise of its other functions, or are there other circumstances where partner authorities might not have to co-operate?

Again, the clause exposes how powerless the Border Security Commander is. The commander cannot actually command any of these partner authorities to do anything at all. Subsection (3) requires those who are co-operating with the commander in the exercise of their functions to put in place arrangements governing co-operation between the commander and that person. Does the Minister have—

The Chair: Order.

11.25 am

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

Adjourned till this day at Two o'clock.

