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OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Sixth Sitting

Thursday 6 March 2025

(Afternoon)

CONTENTS

CLAUSES 19 TO 36 agreed to.

Adjourned till Tuesday 11 March at twenty-five minutes past Nine o'clock.

Written evidence reported to the House.

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

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Monday 10 March 2025

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The Committee consisted of the following Members:

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

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|---|---|
| † 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>Clwyd 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

Thursday 6 March 2025

(Afternoon)

[GRAHAM STUART *in the Chair*]

Border Security, Asylum and Immigration Bill

2 pm

The Chair: Will everyone please ensure that all electronic devices are turned off or switched to silent mode? We now continue line-by-line consideration of the Bill. The grouping and selection list for today's sittings is available in the room and on the parliamentary website. I remind Members about the rules on declarations of interests as set out in the code of conduct.

Clause 19

MEANING OF KEY EXPRESSIONS

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

The Chair: With this it will be convenient to consider clauses 20 and 26 stand part.

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure to welcome you back to the Chair, Mr Stuart, for what will be a marathon session. Clause 19 provides definitions for the key expressions used in relation to the electronic devices measure. These definitions mean that the measure will focus the powers only on irregular entrants who are in possession of an electronic device that authorised officers have reasonable grounds to suspect contains information relating to facilitation offences under the Immigration Act 1971.

Furthermore, clause 19 defines "authorised officer" as:

"an immigration officer, or...a constable of a police force maintained by a local policing body".

The aim of the powers is to gain access to information held on such devices on the organised crime groups who help facilitate or plan migrants' dangerous journey and, as a result, to save lives from being lost. The clause is integral in defining the key expressions relating to how the powers can be used.

Clause 20 enables immigration officers within the United Kingdom of Great Britain and Northern Ireland and police constables in England and Wales only to search an irregular entrant if they have reasonable grounds to suspect that they are in possession of an electronic device that contains information linked to a facilitation offence. That power enables the search of a person, property, premises, vehicle or container. That is to ensure that, in any circumstances in which it is necessary to obtain a device, the authorised officer can use the powers to conduct a search. The clause contains safeguards to ensure the powers are used appropriately. Clause 20 provides clarity over how searches must be conducted in accordance with these powers.

Finally, clause 26 defines any additional expressions referenced throughout clauses 19 to 23. That will ensure that it is clear to users of the powers what key expressions mean. It is important to be transparent about what is meant and to ensure that the public and authorised officers fully understand these expressions.

Matt Vickers (Stockton West) (Con): We support clauses 19 to 26, but only in so far as they endorse powers that we think already exist to seize, extract and retain data from mobile devices. Clause 19 provides definitions of key terms in sections 20 and 21 relating to the provisions of those clauses to allow authorised officers to search for, seize and retain relevant articles. The definition of a "relevant article" is

"any thing which appears to an authorised officer to be a thing on which information that relates, or may relate, to the commission of an offence under section 25 or 25A of the Immigration Act 1971 is, or may be, stored in electronic form."

Will the Minister provide some concrete examples of what the Government think such information might consist of?

Clause 20 gives relevant officers—either an immigration officer or a police constable—powers to search a relevant person, which is someone who has entered the UK without leave or in breach of a deportation order. Will the Minister explain why subsection (2) does not allow for any more than one search after the person in question has arrived in the UK? The clause gives officers the power to search for "relevant articles", which are described in clause 19 as

"any thing which appears to an authorised officer to be a thing on which information that relates, or may relate, to the commission (whether in the past or future) of an offence under section 25 or 25A of the Immigration Act 1971".

That is quite a narrow definition, as it covers just electronic devices. Will the Minister reassure the Committee that the necessary powers to search for non-electronic items exist elsewhere? In practice, we suspect the power will be used to gather information and evidence to identify smugglers for prosecution. We fully support that, but most mobile devices are destroyed during or prior to travelling across the channel. Will the Minister therefore explain whether she expects any of the evidence gathered using the powers in these clauses to be used to support decision making on immigration enforcement?

If the devices are seized, as the former director general of Border Force pointed out in his evidence, they may contain useful information about nationality, identity, age and travel history, and may provide valuable evidence when assessing asylum claims. Will the Minister explain how effective the new powers will be in supporting evidence gathering to remove those with no right to be here? Will information gathered using these powers be available to asylum screening teams? Will that evidence be used in decision making for immigration appeals? These clauses do not have extraterritorial reach, so can the Minister explain to what extent the Government envisage these additional powers will make a meaningful difference to smashing the gangs, when many of the perpetrators are located outside the UK?

Pete Wishart (Perth and Kinross-shire) (SNP): These clauses create invasive new search, seizure and retention powers, along with the powers to access, copy and use information contained within an electronic device. The

new powers can be applied to any person who arrives irregularly and has not yet been granted permission to enter or remain in the UK. They allow an immigration or police officer to fully search a person, including a search of that person's mouth. I expect that the Minister will tell us exactly whether that particular qualification is required for these new powers.

This is not the plot and setting of some future dystopian film: it will be the UK sea border in the course of the next few months. These things will not be done to hardened criminals wandering the streets of the United Kingdom or those associated with violent crime. They are to be done to some of the most abandoned and traumatised people in the world. With these clauses we are starting, measuredly, to go into police state territory. They are essentially a hybrid form of stop-and-search powers, without the due qualifications and reassurances. I do not know if profiling will be a part of this—I will be interested in the Minister's response—but it seems like only one profile will be included in all that, which is that of every asylum seeker. They may all be subject to these new powers.

For these powers to be exercised, there need only be reasonable grounds and suspicion that a relevant article appears to store some electronic information that relates or may relate to the future or past commission of a facilitation offence. That seems excessively broad. Practically any person who arrives irregularly to the UK may be subject to these powers. Any information received from these searches would be used for preventing, detecting, investigating or prosecuting facilitation offences. The property can be retained for as long as considered necessary to assess, examine or copy information for use in proceedings for an offence, before being returned or disposed of.

I trying to think why the Government want these clauses. I know they are going to tell us it is all about helping to disrupt organised crime and making sure they can find particular and specific information on electronic devices, but I think a lot of it has to do with the 2022 High Court ruling decreeing that the Home Office's secret policy of blanket searching, seizing and returning mobile phones from individuals arriving by small boats was unlawful.

Just like the Tories before them, if any particular law that defends and protects people is seen or deemed to be a little bit unnecessary, the Government will just bring in a new one to override it completely, forgetting anything to do with the consequences and implications for people. These new offences clearly compromise a person's right to a private and family life. Given the confidential, legally privileged, sensitive, private and personal nature of the messages, photographs, information, correspondence and data that may be on such mobile devices, we hold that that could only ever be the case. To be fair, the Government respect that and acknowledge it as fact, and the European convention on human rights memorandum suggests that the new powers could be distinguished and that phones will not be seized on a blanket basis when these powers come into force—well, thank goodness for that.

The memorandum says:

“The Home Office will issue non-statutory guidance about the use of the powers and training which will be required for authorised officers exercising those powers.”

We will have to see that happen pretty quickly, because we have no idea how any of these powers will be exercised. Again, I am entirely happy to take the Minister at her word on how the new law will be exercised as we go forward. However, there is no such guidance for parliamentary scrutiny during the passage of the Bill, so it remains entirely unclear how the Home Office proposes to use these wide and invasive new powers.

I am distinctly uncomfortable with the new powers, and I am disconcerted about how they may be applied and used. A number of agencies have serious misgivings about the type of individuals who will be subject to these new powers. The Minister has to explain just a little more how these powers will be used and what protections will be put in place, particularly for some of the most traumatised people whom we will be ever deal with in this country.

Jo White (Bassetlaw) (Lab): I very much welcome this element of the Bill on electronic devices. While clause 22 will give officers powers to seize digital devices that are believed to be used for the purpose of people smuggling, clause 23 gives suitably trained and accredited criminal investigators the powers to access the information on mobile devices, phones and laptops that will build the evidence base, history, connections and understanding of the routes of the criminal gangs.

Seizing and extracting data from mobile devices is a powerful tool already used by our security services. There are already established Home Office guidelines on this, and these clauses extend those powers and will help enable intelligence-led profiling of irregular arrivals. That key change will lead to greater opportunities to disrupt the trade of these awful gangs.

Chris Murray (Edinburgh East and Musselburgh) (Lab): I want to make just a couple of points on the seizure of phones. We have to be incredibly realistic about the threat that the country faces and how these things are organised. We have seen people-smuggling networks and trafficking networks developing in complexity and scale. It does not start in France; it goes all the way through European countries—our allies—and then through countries that are very difficult for us to engage with, including some countries that are at war and some that are hostile states.

The evidence from the National Crime Agency is very clear that the networks are organised by phone, and that that is the primary means by which these criminals orchestrate them. We know that they are evolving, so it is really important that we give officials the power to seize those phones not only to understand where these smuggling networks are coming from, which is the only way to intercede and save people in unsafe vessels, but to disrupt those networks later.

We heard a whole set of arguments earlier about the insufficiency of deterrents in stopping sea crossings. Professor Walsh from the Migration Observatory was really clear that the demand is inelastic. No matter how many deterrents we introduce, there will still be some demand rising to meet them. That is why disruption is so important, which we can only happen if we have the ability to seize those phones. There is a really important distinction between targeting the demand and targeting the supply of the ability to cross the channel.

[Chris Murray]

On the point about whether the powers are applied on a blanket basis, they are not. The Home Office is clear that there will be statutory guidance. The people who seize these phones will be subject to the same rules that are already in place on the handling of material seized from any individual, and they need those powers. The point about family life and private life is absolutely fair, and it applies whenever someone's phone is stolen, which is a wider debate that we have in society. The truth is, there is no capacity to only seize part of someone's phone. We cannot seize only some data and not detect, for example, private text messages or family photographs. It is proper that the Home Office officials who seize such data are subject to the rules that we have in this country about protecting the data and returning it when it is decided that it is not required, but we cannot separate out different types of data, and we would be throwing the baby out with the bathwater if we did not allow the powers to seize it.

2.15 pm

Dame Angela Eagle: The proposed powers will enable immigration officers and the police to search for, seize, retain and extract information from electronic devices, but only based on two criteria. The first is reasonable grounds to suspect that the person has a relevant electronic device and that it contains information that relates, or may relate, to the commission, whether in the past or future, of an offence under sections 25 or 25A of the Immigration Act 1971—the facilitation offence.

The second criterion is that the person must be an irregular arrival or entrant. Currently, the Illegal Migration Act 2023, which is on the statute book until we get this Bill made into an Act, allows for blanket seizure, and searching for all purposes, of all phones. We are repealing that very wide power and replacing it with this one, which is much more targeted than the IMA one.

The hon. Member for Stockton West hinted that we should use this clause to widen the powers, or allow all the information on the phone to be used for all purposes. That is not what we are suggesting. In fact, part of the reason why the Illegal Migration Act powers of seizure was never operationalised is that building the sheer capacity to take everyone's phones off them and download the contents and analyse what was on all of them defeated the powers that be, and the technical ability to do so has not yet been developed.

It seems to us, from talking to organisations in the police, and the National Crime Agency, who follow these things very closely, that the best and most targeted way to get at some of this information is to have these criteria. There must be reasonable grounds to suspect, and that is not a blanket thing. These are intelligence-led powers, which will lead us potentially to certain individuals, so that we can take a device off them and analyse what is on it.

Experience suggests that what is on such devices can be very revealing. I will not list things here, because I do not want to produce a list of things that people should not leave on their phones that is essentially public, but we all use our telephones and other devices in ways that we all know about, and we probably would be very sobered if we realised how much Apple knows about us,

for example, just by looking at its own records. A lot can be gleaned, but there must be reasonable suspicion that the individuals whose devices are taken are involved in facilitation—not just coming over, under section 24, but under section 25, which is facilitation, the more serious offence.

The hon. Member for Stockton West said he thought those powers already existed. In the Illegal Migration Act, yes, but they are completely uncommenced and not put into effect, and are far too blanket to be useful. There is a current power to seize, but that power does not enable immigration officials or police constables to search and seize devices in many circumstances at all. First, a person must be under arrest before that can be done, and we think that, as part of our intelligence-led, counter-terrorism-style powers to defeat organised immigration crime, being able to search a bit ahead, and certainly ahead of an arrest, is a useful power, so that is what these clauses provide for.

The hon. Member for Stockton West asked whether information found on phones could be used for asylum casework. No, we do not think that is appropriate. This focused power allows us to search for information and evidence about organised immigration criminality, not about any other aspect of the person's existence. There are clauses that we will come to later, however, that would enable us to operationalise the information we have, particularly if other crimes come to light as a result of a search.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 20 ordered to stand part of the Bill.

Clause 21

POWERS TO SEIZE AND RETAIN RELEVANT ARTICLES

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

Dame Angela Eagle: Clause 21 provides immigration officers in the United Kingdom of Great Britain and Northern Ireland, and police constables in England and Wales, with the power to seize and retain electronic devices. Clause 21 provides a clear and detailed approach for authorised officers to ensure that the powers are correctly, efficiently and effectively used.

Matt Vickers: Clause 21 gives authorised officers the power to seize any electronic device that has been found in a search under clause 20, or is not found on a search but appears to the officer to be, or to have been, in the possession of a relevant person. How would officers determine whether an article appears to be or to have been in the possession of a relevant person? What is the evidence threshold for that?

My question for the Minister about clause 21 is similar to my one about clause 20. Will the powers be used to gather evidence that can be used in immigration decision making and appeals? The Opposition support the powers in this clause, in so far as they go.

Dame Angela Eagle: I am glad that the hon. Gentleman supports the powers, but I emphasise to him again that clause 21 is very much in the context of the clauses that

we have just agreed. It is a more limited—not a blanket—power. It exists within the parameters that I set out in the previous debate.

I emphasise again that none of the information seized in this context could be used in an asylum case; it is for the purposes of dealing with organised immigration crime. It is not for wider purposes, unless other criminality is found, in which case it becomes available and can be passed on. That will be dealt with in some clauses that are coming up. But these provisions are limited to collecting evidence and intelligence on organised immigration crime from people who have just entered the country illegally.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22

DUTY TO PASS ON ITEMS SEIZED UNDER SECTION 21

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

Dame Angela Eagle: Clause 22 will provide immigration officers using the powers with the duty to pass on electronic devices to other agencies, such as the police. The clause will be used if an electronic device seized contains information about a non-immigration offence—this is the case that I was hinting at earlier. Clause 22 provides the process to be used in these types of cases. We cannot seize an electronic device without that process in place, because we may discover information relating to a criminal offence, such as a counter-terrorism offence or an offence related to indecent and/or obscene material of a child—those kinds of offence. If we discover evidence of such activities on a phone, we must act, and to act we have to have the processes in place to enable items to be forwarded to police or any other agency that needs to take possession of the device for its investigation into the other criminality.

The clause provides for a robust step-by-step process to ensure that immigration officers know what actions to take to forward the device or if the agency to which we wish to forward the device refuses to accept it for an investigation.

Matt Vickers: Clause 22 gives authorised officers the duty to pass on seized items that have been found in a search under clause 21 where there is a reasonable belief that the article or information stored on it has been obtained in consequence of, or is evidence in relation to, an offence other than the relevant immigration offence. The immigration officer is under a duty to notify someone who has the functions to investigate the relevant offence. What might be the reasons why a person notified under the clause might not accept the article, and what would be an acceptable reason? If a relevant person refuses to accept the article, what are the next steps? We support the powers in the clause so far as they go.

Dame Angela Eagle: It is a bit difficult to talk about specific circumstances in a generalised way. As the hon. Gentleman will perceive, there may be some material on a phone that police or immigration officers are worried breaks the criminal law—I talked about counter-terrorism

and child sexual exploitation as potential examples. That information may be passed on and the relevant authorities might decide that it was not at a criminal level—that would be the kind of occasion that the hon. Gentleman was asking me about.

However, one would assume that, with the appropriate training, it would be fairly obvious whether something would be a worry for the purposes of counter-terrorism or child sexual abuse, and police forces could understand whether they have an obligation to try to prevent criminal activity of a category other than that for which the phone was originally seized. Once we begin to seize phones for narrow purposes, we have to make certain that passing on that information is lawful, and that is the purpose of the clause.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Clause 23

POWERS TO ACCESS, COPY AND USE INFORMATION STORED ON RELEVANT ARTICLES

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

The Chair: With this it will be convenient to discuss new clause 22—*Access to mobile phone location data*—

“(1) The Investigatory Powers Act 2016 is amended as follows.

(2) In section 86 (Part 3: interpretation), after subsection (2A)(b), insert—

‘(c) illegal immigration.’

(3) The Immigration Act 2016 is amended as follows.

(4) In paragraph 4 of Schedule 10, (electronic monitoring condition), after subsection (2)(d) insert—

‘(e) involve the tracking of P using P’s mobile phone location data.’”

This new clause would allow law enforcement to access mobile phone location data of people who enter the UK illegally.

Dame Angela Eagle: I will wait until the hon. Member for Stockton West has spoken to his new clause before I respond to anything he says about it; I will briefly outline what clause 23 does and if the hon. Gentleman wants a reply, I will come back at the end.

Clause 23 will ensure that authorised officers can assess, examine, copy and use information stored on a relevant article. It will enable authorised officers to copy the information from electronic devices so that the device can be returned to the owner as soon as possible. The clause is vital to enable authorised officers to obtain the information needed in relation to facilitation offences under sections 25 and 25A of the Immigration Act 1971, to use for purposes relating to the prevention, detection, investigation or prosecution of such an offence. It is very much targeted at organised immigration crime and the facilitation of illegal entry to this country.

Clause 23 will help the Government to tackle organised crime groups, protect migrants from exploitation and prevent lives from being lost on dangerous journeys across the channel. Obtaining that information will further focus our approach to tackling organised crime groups, identifying as early as possible the trends in the

[*Dame Angela Eagle*]

activities of gangs, including their modus operandi, and providing the Government with improved information to prevent future fatalities.

2.30 pm

Matt Vickers: Clause 23 gives authorised officers the power to access, copy and use information stored on relevant articles that have been retained under powers detailed in clause 21, and authorises the use of any information retained under this clause relating to the prevention, detection and investigation, or prosecution of such an offence. We support the powers in the clause. However, it is important to bolster the utility of the powers in clauses 20, 21 and 23. It is for that reason that we have tabled new clause 22, picking up on the suggestion made by the former director general of Border Force in his written evidence to the Committee.

We have tabled the new clause because currently Border Force and immigration enforcement officers are not able to use mobile devices to track illegal migrants on bail. Although powers exist for electronic tagging, there are difficulties with using these powers and so they are not frequently used. At present, mobile devices can be used only for tracking people for serious offences. Under the Investigatory Powers Act 2016, an illegal entry into the UK does not count as a serious offence for these purposes.

Mobile devices are often used by migrants on bail to report by phone rather than in person, which minimises their risk of arrest and detention on reporting. Without access to location data about illegal migrants, they are able to stay at addresses not listed on their bail forms. If immigration officers were able to make use of location data from mobile devices, they would be better able to secure compliance with bail conditions and thus reduce the risk of absconding.

New clause 22 would allow law enforcement to access the mobile phone location data of people who enter the UK illegally. It would do so by adding illegal immigration to the Investigatory Powers Act 2016 as a serious offence that allows location data to be used. We would also amend the Immigration Act 2016 to allow a person's mobile phone location data to be used as part of electronic monitoring for immigration enforcement.

Of course, migrants can change phones, but they are more likely to make use of them than electronic tags. In our view, the new clause would add a useful new power to immigration enforcement teams. I am very keen to hear the Minister's view.

Dame Angela Eagle: New clause 22 proposes an amendment to section 86(2A) of the Investigatory Powers Act 2016. However, I do not think that this proposal is either necessary or appropriate.

The Investigatory Powers Act 2016 provides law enforcement and other relevant public authorities with the ability to acquire communications data covertly, where it is necessary and proportionate to do so. Members of the Committee should particularly focus on the seriousness of the powers conferred in the 2016 Act, including the ability to covertly acquire communications data where it is necessary and proportionate to do so.

With new clause 22, the question arises as to whether it is appropriate to add immigration issues to that area of the law, and whether, with an immigration issue, it would be necessary and proportionate to start acquiring covertly communications in an immigration setting. It is important to consider whether that would unbalance the Investigatory Powers Act 2016 and cause some issues that would probably weaken it.

The Investigatory Powers Act 2016 is intentionally neutral on the specific types of crime for which the powers within it can be deployed. Instead, it sets a threshold for serious crime, to enable access to more intrusive powers. The threshold for the acquisition of communications data—the who, when, how and where of communication, but not the content—is set out in section 86(2A) of the Investigatory Powers Act. Events data, which includes details of where and when a specific communication took place, is available only for crimes that meet the serious crime threshold. The threshold at section 86(2A)(a) of that Act is a crime for which a sentence of at least 12 months' imprisonment can be handed down.

The proposed new clause does not define illegal immigration, but many of the immigration offences in section 24 of the Immigration Act 1971, as recently amended by the Nationality and Borders Act, will already meet the serious crime threshold. There is no real reason to put immigration crime in there; it is already implicitly included. If we start to add particular instances, that will unbalance the way that the Investigatory Powers Act works. That is a technical point, but it is about keeping our statute book coherent, rather than adding things in for effect. Essentially, since offences under section 24 of the 1971 Act are indictable, the serious crime threshold would already be met, so events data can already be acquired as part of the investigation. We do not need to go through the rigmarole in the new clause to emphasise what is already possible.

Where offences do not meet the serious crime threshold, it would not be proportionate to extend the use of events data to those crimes. The right to private and family life is set out in article 8 of the Human Rights Act 1998, and it is important to uphold our obligations to the European convention on human rights. I know that is not always the most popular thing among Opposition Members, but as someone who voted for it in 1998, I am still quite proud of it. Defending our human rights and ensuring that such things are proper, proportionate and lawful is an important part of trying to pursue and deal with difficult cases with certain standards of behaviour.

Although article 8 is a qualified right, we must ensure that interference remains necessary and proportionate to the level of criminality. By introducing specific crime types that do not meet the sentencing threshold, we risk eroding the safeguards in the regime. By taking away the rights of people who may seem marginalised at the moment, I submit that we are putting at risk our own rights, and human rights in general. That is not something that I would want the Government to do.

New clause 22 would also unnecessarily amend schedule 10 of the Immigration Act 2016. Where a person is subject to electronic monitoring as a condition of their immigration bail, the Home Office can access their location details via the GPS tag or non-fitted device. There is no need to access mobile phone location data, because there are already powers to monitor the

whereabouts of individuals at risk of absconding. I hope that, having had that debate, the hon. Member for Stockton West will realise that those things are already covered in the way that we currently do things. I hope that he will not press the new clause to a vote, but obviously we will not know until we get on to voting on it—some time in the future.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

AMENDMENT OF THE CRIMINAL JUSTICE AND POLICE ACT 2001

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

The Chair: With this it will be convenient to consider clause 25 stand part.

Dame Angela Eagle: Clauses 24 and 25 deal with amendments to the Criminal Justice and Police Act 2001, extending those powers to other authorised officers and to key definitions in the clauses. Clause 24 includes amendments to the 2001 Act to extend powers of seizure where a device may contain legally privileged material, excluded material and special material. The 2001 Act also contains essential safeguards for the handling of such material. Extending its powers will ensure that the seizure of any device will not be prevented by claiming that it holds legally privileged, excluded or special material, which is often an excuse that is raised when such matters come up.

Furthermore, clause 24 will ensure that this data is protected, but that operationally, the information needed can still be taken for the purpose of these powers, and that seized electronic devices are returned as soon as reasonably possible.

Clause 25 provides the Secretary of State with the ability to extend the powers to other authorised officers, via secondary legislation, if they are required to support the disruption of organised immigration crime. The Government will ensure that any decisions on extending the powers to other authorised officers will be fully considered before action is taken.

Matt Vickers: Clause 24 amends the Criminal Justice and Police Act 2001 so that provisions relating to the protection of legally privileged material and excluded and special material apply when mobile devices are seized under clauses 20 to 23. Can the Minister explain how often the Government envisage that those provisions would need to be invoked?

Clause 25 allows the Secretary of State to make regulations to extend the powers given to authorised officers in clauses 20 to 23, to be available to other people, including people designated by the Secretary of State. Why might these powers need to be extended to different categories of people? Who does the Minister have in mind? Why are those not included on the face of the Bill? Why was it judged appropriate that these powers are subject to the negative procedure?

Clause 26 defines key terms used in the preceding clauses, and we have no problem with those definitions.

Mr Will Forster (Woking) (LD): Clauses 19 to 23 contain very wide powers. Often, police constables have those powers only when they are authorised and monitored by their superiors, but the powers in the Bill almost allow civil servants and immigration officers to use them without oversight. Clause 25, first, allows Ministers to extend those powers to privately employed staff, and secondly, does so without requiring Ministers to give directions for the exercise of those powers. That sits very poorly with me. I am quite concerned about that. I can understand why we need some broad powers, and I was happy to let the others go through on the nod, but clause 25 seems to go further still. Could the Minister try to reassure me—or us? Particularly, would the Government agree to issue directions for the use of those powers, either today or before MPs vote fully, on Report? I think some colleagues out there will say that the private sector should not have these powers, but if they are clearly identified and statutory guidance is issued, I would feel a lot more reassured.

Dame Angela Eagle: The first thing to say is that the powers under the Criminal Justice and Police Act are already used by law enforcement and apply in many statutes. Therefore, all of these powers will be used to ensure compatibility with ECHR protections, GDPR protections and data protection generally. We have a very high level of expectation when it comes to data protection in these instances.

Both hon. Gentlemen—the hon. Members for Stockton West and for Woking—have asked about the extension to further authorised people, which is potentially available as part of the clause. It is not unusual—the hon. Member for Woking has made this point—for the Government to hire and use contractors, on either a short-term or a long-term basis, depending on demand or business needs. One example that comes to mind in this context would be for a forensic data specialist to do analytics of the information that had been downloaded. *[Interruption.]* I am very sorry if that is me. Hopefully it is not.

Some of this is about ensuring flexibility in the statute, within the protections that I have just talked about—the GDPR, data protection legislation and ECHR requirements—to be able to deal with the information in all circumstances without having to come back to primary legislation. Clearly, those people would be working under the same data protection expectations and requirements as any directly employed person working for the Home Office.

2.45 pm

The negative procedure is really just a flexibility issue. This is not, I do not think, as serious an extension as those who would believe that the Government are trying to instigate some kind of Stasi-style state would think it is. It is simply that if there was an organisation with particular expertise on a specific issue that we needed to get in to help process and deal with this kind of data appropriately, we would be able to do it without being constrained in primary legislation. I hope that provides reassurance.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clauses 25 and 26 ordered to stand part of the Bill.

Clause 27

SUPPLY OF CUSTOMS INFORMATION BY HMRC

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

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

Clauses 28 and 29 stand part.

New clause 23—*Exemptions from the UK GDPR: illegal migration and foreign criminals*—

(1) The Data Protection Act 2018 is amended as follows.

(2) In subsection (2)(b) of section 15 (Exemptions etc), at end insert “, and makes provision about the exemption from all GDPR provisions of persons who entered the United Kingdom illegally and foreign criminals;”

(3) In paragraph (2) of Schedule 2, after sub-paragraph (1) insert—

“(1A) GDPR provisions do not apply if the data subject entered the United Kingdom illegally or is a foreign criminal.

(1B) For the purposes of sub-paragraph (1A)—

(a) a person “entered the United Kingdom illegally” if they entered 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; and

(b) “foreign criminal” is defined in accordance with section 32 of the UK Borders Act 2007.”

This new clause would disapply data protection laws from data on people who have entered the UK illegally or are Foreign National Offenders.

Dame Angela Eagle: Again, I will reserve my comments on the new clause until after I have heard what Members on the Opposition Front Bench have to say about it.

The group entails clauses 27 to 29, which cover the arrangements for HMRC to supply information that it holds in connection with its customs functions. The group also covers new clause 23, which I will try and separate out so that I can try to answer the questions from the hon. Member for Stockton West, once he has put them.

Government Departments like the Home Office and law enforcement partners rely on information sharing for a range of purposes, including law enforcement and border security-related purposes. Key datasets are held by His Majesty’s Revenue and Customs, many of which are held in connection with HMRC’s customs functions. Existing statutory provisions to share this information are complex, fragmented and restrictive in ways that prevent the Government from taking full advantage of technology such as modern big data analytic tools.

Clause 27 will create a new power for HMRC to supply information that it holds in connection with its customs functions to a range of recipients, including UK Ministers, Government Departments, police, and certain international partners. HMRC will be able to supply information for use for the purposes of any of the functions of the recipient.

The sharing of entire datasets and the use of customs information for more than just customs purposes will enable the Home Office and other partners to analyse the information to identify suspicious activity that would not be apparent if each dataset were considered in

isolation. This will support key Government objectives, such as disrupting and dismantling organised crime groups, preventing the unlawful movement of people and goods into the country, prosecuting offenders and protecting vulnerable people, as well as the Government’s safer streets mission.

Clause 28 regulates how the information supplied under clause 27 may be used and disclosed by its recipients. The aim is to ensure that the information is fully safeguarded while also enabling Government Departments to use information received for any of their functions. That will ensure that maximum benefit can be derived from the information received.

Information shared under clause 27 is subject to a general rule: the person who receives it must only use it for the purposes for which it was supplied. They may not further disclose it to anyone without HMRC’s consent. However, there are a number of exceptions to this general rule that will enable certain recipients to use and disclose information more flexibly. UK Ministers, Government Departments and the police will be able to reuse customs information for any of their functions and further share it between themselves for specified border security and law enforcement-related purposes. Additionally, there will be extra onward disclosure permissions for the Home Secretary so that she may disclose the information to any person for use for certain immigration and customs-related purposes.

Clause 29 regulates how the information supplied onwards in accordance with clause 28 may be used and disclosed by its recipients. The aim is to ensure that the information is fully safeguarded. The clause focuses on making clear the restrictions surrounding the reuse and onward disclosure of information supplied under clause 28. Any person supplying information in reliance on clause 28 or 29 must notify the recipients of these restrictions, as they apply to the reuse and onward disclosure of the information. In recognition of the particular importance of protecting HMRC information, which can include a great deal of personal information, clause 29 extends the existing criminal offence of wrongful disclosure under section 19 of the Commissioners for Revenue and Customs Act 2005 to apply to any person who discloses information in contravention of these restrictions.

The intent of clause 29 is a continuation of the safeguards laid out in clause 28, while ensuring that none of the restrictions go against the spirit of the overall information-sharing provision. Clause 29 protects information from being shared beyond the provision’s intent. I will not deal with new clause 23, tabled by the hon. Member for Stockton West until he has spoken to it.

Katie Lam (Weald of Kent) (Con) *rose*—

Dame Angela Eagle: Ah, the hon. Lady will speak to it.

Katie Lam: We welcome the powers in these clauses to share HMRC data. Border Force is responsible for clearing both people and goods at the UK border. There is international precedent for moving towards joint targeting centres for people and goods. From a law enforcement perspective and from ours, the more customs information that can be shared with UK and other

Government agencies, the better. HMRC has a range of customs functions, including the collection and management of customs duty, monitoring and controlling the movement of goods, and control of cash entering or leaving the UK. HMRC is bound by a statutory framework of confidentiality and needs a lawful basis to disclose information.

Clause 27 will allow HMRC to share customs information in support of defending the security of the UK borders. The clause allows UK Ministers, Government Departments and the police to reuse customs information for any of their functions, as the Minister laid out. The clause also allows data to be shared with international organisations that have functions relating to the movement of goods or cash across international borders, or if an international arrangement makes provision for co-operation between that organisation and HRMC. We welcome the powers in clause 27. I would like to ask the Minister how often she expects these data-sharing powers to be used for law enforcement and her assessment of what practical effects the powers will have on making it easier to disrupt organised crime networks.

Clause 28, which we support, specifies the circumstances in which UK Government Departments, Ministers and the police can further share customs data. We also support clause 29 on the safeguards included in this clause. We have tabled new clause 23 to disapply data protection laws from data on those who have entered the UK illegally or are foreign national offenders. The purpose of the new clause is exactly the same as the purpose of clauses 27 to 29, which is to minimise barriers to data sharing between agencies for immigration and law enforcement purposes. We table it in the spirit of the support I have already mentioned for the Government's aims regarding data access.

If someone has entered the UK illegally or is a foreign national offender, law enforcement for their removal is vital and GDPR legislation should not stand in the way of being able to gather and establish any necessary evidence for use in immigration appeals or law enforcement. We wish to remove the barriers to data sharing in these cases, and we know the Government want that too. We hope that they will find the suggested new clause useful.

Dame Angela Eagle: I thank the hon. Lady for speaking to new clause 23. As she said, it seeks to disapply the protections afforded by the UK GDPR regulations to people who have entered illegally or who are foreign criminals. I think that would massively complicate data protection legislation, given that we would always have to keep an eye on who is a foreign national criminal or an immigration offender, over time as well as in the moment. That could make it harder to apply some of the data-sharing rules.

We believe that with the protections in clauses 27 to 29, we can get and share the information that we need to share, to its greatest effect, while protecting people from unlawful disclosure, without complicating things further by trying to check whether somebody is a foreign national offender or has entered the country illegally.

We have a strong history of maintaining high data protection standards. The legislation permits the use of personal data for legitimate purposes, such as immigration control, while giving the public the reassurance that such use will be subject to proportionate safeguards.

Our approach will be to rely on the proportionate safeguards, rather than to disapply the entirety of data protection laws to certain groups of people who happen to be in our society at the moment. The proportionality test, with the focus on organised immigration crime, is important.

Becky Gittins (Clwyd East) (Lab): Does the Minister agree that the lesson learned from the previous Government, with the blanket application of some seizure powers under the Illegal Migration Act being so complicated that they were not actually enforced properly—as we learned from one of our witnesses—is a cautionary tale illustrating why new clause 23 should be rejected?

Dame Angela Eagle: It is certainly a good idea to create legislation that can actually be commenced. Otherwise, we are just all having a fun time in Committee—I can see everyone agreeing with me—and not affecting the statute book, making it easier to do what must be done or enabling the law to help with that rather than having a gigantic problem. As a Minister, I am certainly in favour of enacting laws that we can commence, and I hope that we will be able to commence large parts of the Bill as soon as it has made its proper progress through both Houses.

The UK has a long history of maintaining high data protection standards. Complicating them by trying to disapply them for certain individuals who are in our society whether we want them to be or not implies that we would have to keep very up-to-date, regular records of every single person in the country to check their status. That sounds like ongoing identity checks across the whole population, and that is easier said than done. It is not Government policy, and I did not think it was Opposition policy either. Although the new clause is well meaning, it is a complication rather than an assistance.

Where the exercise of data subject rights, such as the right to seek access to personal data, could undermine the tasks, appropriate exemptions can be applied on a case-by-case basis. Disapplying data protection rules in a blanket fashion for certain groups is unnecessary and could disadvantage some of the most vulnerable people in society, such as victims of trafficking. On that basis, I hope that the hon. Member for Weald of Kent will not press new clause 23, with the reassurance that we think that these clauses give us the power to use big data and big data analytics in a way that is in keeping with data protection laws, the GDPR and the ECHR.

Katie Lam: I take the Minister's points about practicality, but in situations where new clause 23 created additional complexity, the Home Office would retain the option to adhere to the GDPR if it wished to; it would just not be forced to do so. We really think that the provision would be a useful addition and we hope the Government will consider it further. However, we do not intend to press it.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clauses 28 and 29 ordered to stand part of the Bill.

Clause 30

SUPPLY OF TRAILER REGISTRATION INFORMATION

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

3 pm

The Chair: With this it will be convenient to discuss clause 31 stand part.

Dame Angela Eagle: Clauses 30 and 31 concern the sharing of trailer registration information. Clause 30 creates a clear discretionary power for the Transport Secretary and, in practice, the Driver and Vehicle Licensing Agency to share some or all of the trailer registration information they hold with the Home Office, for specified purposes related to border security and law enforcement; the National Crime Agency and HMRC, for use in connection with their statutory functions; policing bodies, for purposes of policing law enforcement and safeguarding national security; and specified persons in the Crown dependencies and Gibraltar for purposes equivalent to their UK counterparts.

The measure is designed in recognition of the limited timeframes that law enforcement bodies have to review information and take decisions when risk-assessing thousands of lorry movements into the UK each day to prevent, detect, investigate and prosecute crime, and to conduct checks at the roadside. Border Force intends to use this information, alongside customs information and other information it holds, to develop a richer picture of vehicle movements and enable timely interventions. For the police, the National Crime Agency, HMRC and recipients in the Crown dependencies and Gibraltar, the value of the information will be realised via the law enforcement data service, which will provide it on demand at the point of need.

Tom Hayes (Bournemouth East) (Lab): I am sure that if we cast our minds back to 2019, we will all remember the awful case where 39 Vietnamese migrants died in the back of a trailer in Essex. Reading reports of what people found when they opened the lorry, and hearing about people dying in excruciatingly painful ways, makes us all realise that everything we are doing is about trying to stop harm to vulnerable people and save lives. Does my hon. Friend agree that this group of clauses will make it easier for data held by DVLA on UK-registered trailers to be shared with our law enforcement and police, and that as a consequence we might be able to avoid more misery and loss of life in such excruciating circumstances?

Dame Angela Eagle: I certainly agree with my hon. Friend. That is at the higher end of the harms that one would hope could be prevented by more timely access to this kind of information. These clauses will ensure that those charged with securing the border and beyond can use the information in line with the range of threat types enabled by cross-border lorry movements such as the one my hon. Friend just mentioned, to ensure that the law enforcement community engaged in tackling organised immigration crime, and wider serious and organised crime, are able to tackle it at pace.

Clause 31 complements clause 30 by setting out how information received by the Home Office and the police may be disclosed onwards, with whom and for what purposes. Robust inter-agency and international co-operation is crucial to smashing the criminal gangs. Border Force routinely works with the National Crime Agency and the police for the purposes of criminal investigations connected with the smuggling of people and illicit goods, and with HMRC for customs purposes.

The police, in turn, need to be able to alert law enforcement partners to identify specific trailers of interest. Border Force and the police also need to be able to alert European law enforcement partners to intercept trailers where there might be a threat to life and in support of cross-border co-operation against illicit goods. This clause, subject to safeguards contained in clause 32, enables just such an outcome to be achieved.

Katie Lam: Clause 30 provides a power for the Secretary of State for Transport to supply trailer registration information to the Secretary of State for the Home Department for immigration purposes, law enforcement purposes, human welfare purposes, purposes connected with functions under the Proceeds of Crime Act 2002, protecting national security, and responding to an emergency. The information can also be shared with the National Crime Agency and HMRC.

We support the powers in the clause. As with the previous group of clauses, this is about being able to bring together the information held by different arms of the state to defend the border, and we wholeheartedly agree with that. I must confess that this is going to be a fairly friendly section of the afternoon, for which I can only apologise to all involved.

Clause 31 provides powers for the onward sharing of information in clause 30. It is important that that information can be shared with those exercising public functions, including those outside the United Kingdom. We also support the new powers in the clause.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32

SECTIONS 27 TO 31: GENERAL PROVISION ABOUT DISCLOSURE

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

The Chair: With this it will be convenient to consider clause 33 stand part.

Dame Angela Eagle: This group includes clauses 32 and 33, which provide for safeguards with respect to the customers and trailer registration information-sharing provisions, which we have just agreed will stand part of the Bill, as well as providing clarity about the meanings of terms within those clauses.

Clause 32 makes general provision about the disclosure of information with respect to clauses 27 to 31. That is information held by HMRC in connection with its customs functions, as set out in clauses 27 to 29, and the DVLA's trailer registration information in clauses 30 to 31. The clause does two things. First, it clarifies that clauses 27 to 31 do not limit how information may be disclosed outside of the scope of this legislation. It does not tie the hands of a named party to disclosing information subject only to the regime established here if another information gateway exists. Secondly, it clarifies that nothing in clauses 27 to 31 authorises disclosure where it would contravene UK data protection or investigatory powers legislation. In deciding on that, the clauses are

to be taken into account. Clause 32 neither treads upon other legal regimes to disclose information outside of the scope of this legislation nor permits anything that would fall foul of existing statutory safeguards—a perfect, balanced approach.

Clause 33 makes provision for the interpretation of clauses 27 to 31—the terms used, their scope and limits. First, it defines the meanings of certain terms through direct definition and in reference to other legislation. Secondly, it seeks to capture all UK police forces and bodies that might be the end users of the information, referring to a “UK authorised person” and a “UK authorising officer” for the purposes of clause 30, and defining what it means in this clause.

The use of the terms “UK authorising officer” and “the person under whose direction and control the constable...is” avoids reliance on references to chief constable, commissioner and chief officer, because those terms have prescribed legal meanings that exclude the commanders of the very important ports police and the even more important Mersey Tunnels police, which rely on other ranks to command. That ensures that the definitions apply to everybody, whatever the force. The ports forces and the Mersey Tunnels police are an extremely important part of defending the border, for obvious reasons.

For “UK authorised person”, the term constable, which includes special constable, is used. The clause also refers to

“other person who is under the direction and control of a person who has the direction and control of a body of constables”.

Such is the poetry of legislative diction, but lawyers know exactly what that means. Instead of police civilian staff, or similar terms with prescribed meanings, we have that rather long and convoluted explanation, which includes everybody. That is because not all forces employ police staff subject to employment contracts. Some also use police volunteers. The MOD police uses civil servants in such roles, while the Police Service of Northern Ireland has powers to use civil servants separately from employed police staff. Use of “other person” accommodates all these cases, so it is all-encompassing, and I hope we have not missed anybody out.

Thirdly—this applies only to the trailer data—we have worked with the Crown dependencies and Gibraltar to identify persons undertaking statutory functions equivalent to their UK border security and law enforcement counterparts. We have defined them as a non-UK authorised person and specified them in a table along with the authorising officers.

Finally, the clause establishes a regulation-making power for the Secretary of State to define the meaning of specified purposes related to policing to ensure that the data requirements are met today and can be updated from time to time as operational requirements evolve. Such an extension would be subject to consultation with policing bodies across the UK, Scottish Ministers and the Department of Justice in Northern Ireland, and it would require the affirmative resolution of both Houses. With those reassurances, I hope members of the Committee will be happy to support clauses 32 and 33.

Katie Lam: Clause 32 makes general provision about the powers of disclosure in clauses 30 and 31. Subsection (2), as the Minister laid out, clarifies that nothing in clauses 27 to 31 authorises disclosure where it would otherwise

contravene data protection or investigatory powers legislation. How much difficulty does the Minister envisage these provisions causing for the sharing of information? I seek reassurance—she has offered some already—that the safeguard will not frustrate legitimate data-sharing activities. Clause 33 defines key terms included in clauses 27 to 31, and we have no problems with it.

Dame Angela Eagle: I reassure the hon. Lady that we do not envisage the definitions causing any practical problems with data sharing and the powers defined in clauses 27 to 31.

Question put and agreed to.

Clause 32 accordingly ordered to stand part of the Bill.

Clause 33 ordered to stand part of the Bill.

Clause 34

PROVISION OF BIOMETRIC INFORMATION BY EVACUEES ETC

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

The Chair: With this it will be convenient to consider clause 35 stand part.

Dame Angela Eagle: Clause 34 is critical to the Government’s ability to manage crises and support evacuations effectively. Where the UK Government are considering or have facilitated an individual’s departure from a country in crisis, it is essential to lock in identity and conduct necessary biometric checks at the earliest opportunity, for obvious reasons. Clause 34 ensures that there is a clear legal framework for collecting biometric information outside the UK in these exceptional circumstances. The clause includes important safeguards, particularly for children, to ensure that biometric data is collected responsibly. The provision reflects the UK’s commitment to maintaining both security and efficiency in high-risk international evacuation situations.

3.15 pm

Clause 35 details the Government’s approach to the use and retention of biometric data gathered subject to clause 34. It sets out the circumstances in which the Secretary of State may use the information, mainly in connection with their duties relating to immigration and nationality, along with law enforcement and national security. In line with data protection legislation, the information will be retained only if this is necessary, and will be destroyed either when no longer needed or within five years. The clause contains important safeguards that protect the data of individuals in scope of clause 34.

Katie Lam: Clause 34 provides a power for an authorised person to take biometric information when the Government are in the process of facilitating their exit from a state or territory. The purpose of the power is to ensure that only those who qualify under particular evacuation schemes are able to come to the UK. The power to take biometric information should help to verify identity and conduct screening checks, as individuals in these circumstances are often undocumented. We fully support the provision.

[Katie Lam]

We would be interested to hear more about whether the Government intend to take further action on biometrics, which could be brought about through the Bill. Countries such as Dubai and Singapore are investing in biometric entry and exit systems, as is the EU. The UK does not routinely capture biometrics at the border, although with the new UK electronic travel authorisation, we will collect digital photographs of all non-visa nationals, with the option of retaining fingerprint scans.

We are aware that there are logistical and financial challenges to enabling Border Force to collect biometrics routinely from all passengers on arrival and departure, but there are also substantial benefits, including helping to match illegal migrants and asylum seekers leaving the country, thereby giving a clearer picture of those who are overstaying through more accurate migration figures. We would be interested in hearing how the Government are thinking about biometrics more broadly in the context of their not extending the power to capture biometrics more widely in the Bill.

Dame Angela Eagle: Working out the potential for electronic borders and a more sophisticated approach to the hundreds of millions of journeys that cross our borders every year is an important part of the day job of my hon. Friend the Member for Feltham and Heston. This is a more limited clause, but we are certainly investigating the potential, costs and benefits of a much more digitalised border. We are not about to introduce that through this Bill, but there will be more to be said when that work has been done in due course.

We understand the potential for making border crossings much more convenient for everybody while having more robust information about who has crossed borders, and when and where they were crossed. Some of this is about goods, trailers and a range of other things crossing borders, and ensuring that we have information on when people smugglers and clandestines cross borders, too.

Tom Hayes: I note that clause 34(3) sets out the requirement for an authorised person only to take biometric information from a child under the age of 16

“in the presence of a person aged 18 or over who is—

- (a) the child’s parent or guardian, or
- (b) a person who for the time being takes responsibility for the child.”

Does the Minister agree that we ought not to disapply the requirement for consent on such tests for children who are under the age of 16?

Dame Angela Eagle: It is important that we uphold standards and have those requirements, which is why the clauses we are debating do that. These clauses deal with the need, in an emergency situation, to evacuate people who are British citizens and/or people who live in families that include British citizens. It is about being able to get them to safety but, at the same time, to collect biometric information so that we can check who they are. It is much more effective for us to do that at the earliest opportunity rather than getting them to the UK or on UK territory and having to do it then. That is why the clauses will put us in a much better situation from

the point of view of identity and security checks, if there is an emergency evacuation of British nationals from a particular place in the future, which we hope will not happen.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clause 35 ordered to stand part of the Bill.

Clause 36

PROVISION OF BIOMETRIC INFORMATION AT PORTS IN SCOTLAND

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

Dame Angela Eagle: Clause 36 will enable the biometrics of persons detained in Scotland under schedule 8 to the Terrorism Act 2000 and schedule 3 to the Counter-Terrorism and Border Security Act 2019 to be taken at ports, thereby bringing the position in Scotland into line with that in England, Wales and Northern Ireland.

Those schedules allow an examining officer—a constable, or a designated immigration or customs officer—to stop, question, search and detain a person at a port, or at the border area in Northern Ireland, for the purposes of determining whether the person appears to be a person who is, or has been, engaged in terrorism or hostile activity. An examining officer may stop and question a person whether or not there are grounds for suspecting that the person is, or has been, engaged in terrorism or hostile activity. Those are important powers that allow counter-terrorism police officers to detect, disrupt and deter terrorism and hostile activity at the border.

The powers for taking biometrics in Scotland are contained in paragraph 20 of schedule 8 to the 2000 Act and paragraph 42 to schedule 3 of the 2019 Act. Clause 36 amends those paragraphs, removing the unnecessary restriction unique to Scotland that requires that those detained under those powers are taken to a police station to have their biometrics taken. The clause will allow biometrics to be taken much more easily and quickly in situ, rather than the person having to be transported to a police station.

Katie Lam: Clause 36, as the Minister has laid out, extends biometrics powers to ports in Scotland. As we understand it, immigration enforcement already has the power to take biometrics from people arrested in the UK, including at ports, if they are suspected of having entered or remained in the UK illegally. How does the Minister think that the clause will add to existing operational powers?

Dame Angela Eagle: It is a lacuna in Scotland rather than a problem elsewhere. It is simply that, in Scotland, biometrics cannot be taken except in a police station. In his 2020 report on the operation of the Terrorism Acts 2000 and 2006, the independent reviewer of terrorism legislation recommended that we address the issue. We saw the Bill as an opportunity to deal with what is obviously an unintended kink, so we are ironing it out.

Katie Lam: That is very helpful, but I just want to check that I fully understand what the Minister is saying. The power already exists, but it is about locational flexibility—is that right?

Dame Angela Eagle: At the moment, under Scottish law, biometrics—in this instance—must be taken in a police station. Everywhere else, they can be taken in situ. We are just bringing the situation in Scotland into line. It is a minor change, but it will have an important practical effect.

Question put and agreed to.

Clause 36 accordingly ordered to stand part of the Bill.

*Ordered, That further considered be now adjourned.—
(Martin McCluskey.)*

3.24 pm

*Adjourned till Tuesday 11 March at twenty-five minutes
past Nine o'clock.*

Written evidence reported to the House

BSAIB22 Humans for Rights Network and Border
Criminologies (joint submission)
BSAIB23 HIAS + JCORE

BSAIB24 Labour Exploitation Advisory Group (LEAG)
BSAIB25 British Red Cross
BSAIB26 United Nations High Commissioner for Refugees
(UNHCR)