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Monday
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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind LD	Independent Liberal Democrat
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
LD Ind	Liberal Democrat Independent
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

HER MAJESTY'S GOVERNMENT

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Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster—The Rt Hon. Michael Gove, MP

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Secretary of State for Health and Social Care—The Rt Hon. Matt Hancock, MP

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Secretary of State for International Trade and President of the Board of Trade, and Minister for Women and Equalities—The Rt Hon. Elizabeth Truss, MP

Secretary of State for Work and Pensions—The Rt Hon. Dr Thérèse Coffey, MP

Secretary of State for Education—The Rt Hon. Gavin Williamson, CBE, MP

Secretary of State for Environment, Food and Rural Affairs—The Rt Hon. George Eustice, MP

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Baroness Scott of Bybrook, OBE
Baroness Bloomfield of Hinton Waldrist
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§ Members of the Government listed under more than one department

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15 March 2021

THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE FIRST SESSION OF THE FIFTY-EIGHTH PARLIAMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND COMMENCING ON THE SEVENTEENTH DAY OF DECEMBER IN THE SIXTY-EIGHTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

FIFTH SERIES **VOLUME DCCCXI**

ELEVENTH VOLUME OF SESSION 2019-21

House of Lords

Monday 15 March 2021

1 pm

Prayers—read by the Lord Bishop of Winchester.

Arrangement of Business

Announcement

1.07 pm

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber, others are participating remotely, but all Members will be treated equally.

Oral Questions will now begin. Please can those asking supplementary questions keep them brief and confined to two points? I ask that Ministers' answers are also brief.

Racism

Question

1.08 pm

Asked by ***Lord Woolley of Woodford***

To ask Her Majesty's Government, further to the International Day for the Elimination of Racial Discrimination on 21 March, what steps they are taking to tackle (1) institutional, and (2) structural, racism in the United Kingdom.

Baroness Scott of Bybrook (Con): My Lords, this Government campaigned on commitments to tackle prejudice, racism and discrimination. That is why the Prime Minister established the Commission on Race and Ethnic Disparities last July, to examine all aspects of continuing racial and ethnic disparities in Britain. The commission has focused on areas including education, employment, health and the criminal justice system. The commission is currently finalising its report; this will be submitted to the Prime Minister shortly.

Lord Woolley of Woodford (CB) [V]: My Lords, Covid-19 has had a devastating and disproportionate impact on black, Asian and minority ethnic communities. This disease has laid bare and exacerbated racial structural inequalities. Does the Minister agree that, when the Commission on Race and Ethnic Disparities reports in a few days' time, it must include a Covid-19 race equality strategy, to comprehensively deal with inequalities in health, employment, education and housing?

Baroness Scott of Bybrook (Con): My Lords, on 26 February we released a second report on the progress being made on tackling Covid-19 disparities experienced by individuals from ethnic minority backgrounds. I am sure this will be part of the outcomes of the commission that the Prime Minister will shortly receive.

Baroness Verma (Con) [V]: My Lords, given the spotlight put on the levels of racism still found across all levels of society—public, private, civil society and institutions—will the Government, following the review, also review their own processes across Whitehall in order to root out all barriers that prevent people of colour accessing the same opportunities as their white colleagues? There seems to be a gap between those coming in at entry level and at senior and middle management. Will my noble friend meet with me and others who understand these issues very well, as someone who has had personal experience herself, to help shift the dial?

Baroness Scott of Bybrook (Con): My noble friend is correct, but the Government are campaigning on their commitments to tackle racism and discrimination. They are committed to increasing ethnic minority representation at senior levels within the Civil Service, across all government departments and their agencies. We have taken a number of clear steps in recent years that are already having a very positive impact. I am certainly very happy to discuss a meeting with my noble friend and the department.

Lord Hastings of Scarisbrick (CB): My Lords, 22 years ago Sir William Macpherson declared the Metropolitan Police to be institutionally racist and the law was changed, but little has changed. The *Guardian* editorial today, in the light of Saturday's grossly over-the-top and aggressive use of police power against women, states:

"The commissioner declared the service no longer institutionally racist, while a surge in stop and search has alienated many people of colour … this weekend, many more women and men are questioning whom exactly the police serve."

Is it not time to abandon the unaccountable notion of operational independence and direct the police to abandon racist practices, notably stop and search?

Baroness Scott of Bybrook (Con): My Lords, there was obviously, in the last few years, a large report on racism within the police. However, we will continue to work on this, and the commission will continue to look at what more we can do to ensure that all the systems—education, policing et cetera—have no racism in the future.

Lord Hendy (Lab) [V]: My Lords, the Office for National Statistics analysis in October 2020 showed that the ethnicity pay gap between white and ethnic minority employees has narrowed but persists, with marked regional variations. The largest is in London, at 23.8%, and the smallest is in Wales, at 1.4%. There are also gaps between ethnicities. Will the Minister consider amending legislation to impose a duty on employers to report the ethnicity pay gaps in parallel to those under Section 78 of the Equality Act 2010 in respect of the gender pay gap?

Baroness Scott of Bybrook (Con): My Lords, the Government are already looking at this issue and will report in due course. However, the important thing to note is that because of the pandemic we look at unemployment among all the people of this country, and for that aim there has been a £30 billion investment in the Plan for Jobs, which obviously will include looking at the issues that ethnic minorities have in particular.

Baroness Hussein-Ece (LD) [V]: Institutional and structural racism is real and affects every aspect of black and minority ethnic people's lives. A recent report showed that black women are still four times more likely than white women to die in pregnancy or childbirth in the UK, and that 85% of black people are not confident that they would be treated the same as a white person by the police. The Government seem to be taking a rather piecemeal approach. Will they take their responsibilities seriously, bring forward a plan for a comprehensive race equality strategy and, in doing so, implement the outstanding recommendations of the reviews that they commissioned, such as the 2016 Lammy review and the 2017 Angiolini review into deaths in police custody?

Baroness Scott of Bybrook (Con): My Lords, the race disparity unit has been supporting the Department of Health in driving positive actions in maternity services to improve, quite rightly, the outcomes for ethnic minority women, including the NHS Help Us Help You campaign. As I have said, the commission will bring all these issues together and we will look at moving that work forward on the back of all those reviews that we have had in the past, taking them all into account.

Baroness Wilcox of Newport (Lab) [V]: My noble friend Lady Lawrence's recent report exploring the disproportionate impact of the coronavirus crisis on black, Asian and minority ethnic communities concluded that the virus has both exposed structural racism in the UK and itself fuelled racism. It was not just a random case of above-average infection rates; it was a result of decades of social and economic inequalities and of structural injustice, inequality and discrimination. When do the Government intend to publish the delayed report of the Commission on Race and Ethnic Disparities that was submitted to the Prime Minister on 28 February?

Baroness Scott of Bybrook (Con): As I have said, the commission has one final meeting to finalise its report. After that, the report will go to the Prime Minister and then it will come back for us to look at its recommendations.

Baroness Deech (CB) [V]: My Lords, David Baddiel's latest book is called *Jews Don't Count*. Bigotry against Jews and Israel is rampant in our universities, from the top of the administrations through the academics to the students, as evidenced by the Community Security Trust. The problem is institutional—for example, at Bristol University right now. The Universities UK report last November on racial harassment ignored it. Will the Minister make sure that the Office for Students uses its current consultation on harassment on campus to bring forward plans to address anti-Semitism?

Baroness Scott of Bybrook (Con): We certainly will, and I will take that back to the department on behalf of the noble Baroness.

Lord Taylor of Warwick (Non-Afl) [V]: My Lords, in reality there is only one race: the human race. What steps are the Government taking to address the fact that, for the first time in six years, there are currently no chairmen or chairwomen, chief executives or finance directors in the FTSE 100 from the black community?

Baroness Scott of Bybrook (Con): My Lords, this issue is something that the Government have been working on with the private sector for a long time and will continue to do so, particularly on increasing the number of ethnic communities that are at the top of those organisations.

Lord Bourne of Aberystwyth (Con) [V]: My Lords, will my noble friend commend the work done to combat racism and discrimination in football through Kick It Out campaigning? I know the Government are supportive. Will she lend support to the many clubs campaigning to end discrimination, such as my own club, Leicester City?

Baroness Scott of Bybrook (Con): My Lords, I congratulate Leicester City on being third in the league and on their 5-0 win yesterday. My noble friend is right: racism or indeed any form of discrimination has

no place in football or society, but there is still more to do. The Government continue to liaise closely with the football authorities to tackle this issue.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We now come to the second Oral Question.

Protocol on Ireland/Northern Ireland

Question

1.19 pm

Asked by ***Lord Hay of Ballyore***

To ask Her Majesty's Government what assessment they have made of the impact of the Protocol on Ireland/Northern Ireland on businesses in Northern Ireland; and what progress they have made with the European Union in resolving any issues with that Protocol.

Baroness Scott of Bybrook (Con): My Lords, while the UK Government have focused on pragmatic and proportionate implementation of the protocol, with extensive support for businesses, we are clear that further action is needed to address concerns about its operation. We continue to want to work with the EU to this end, focused at all times on restoring confidence across the communities of Northern Ireland.

Lord Hay of Ballyore (DUP) [V]: My Lords, Northern Ireland is suffering real economic and social difficulties as a consequence of the Northern Ireland protocol creating new barriers to unfettered trade within the United Kingdom and disrupting supply lines for goods to Northern Ireland. While I welcome recent action taken by the Government to address some of these issues for the immediate future, such action will not address the long-term fundamental problems facing many businesses and consumers in Northern Ireland with this unworkable protocol. The Prime Minister needs to deliver on his promises to protect Northern Ireland's position within the UK internal market and ensure unfettered access to goods from Great Britain. He needs to stand up for Northern Ireland. Does the Minister agree that the longer-term solution will eventually be to use the sovereignty of Parliament to replace the protocol altogether?

Baroness Scott of Bybrook (Con): No, my Lords, I do not agree. The protocol is an important part of what we are working towards with Northern Ireland and the whole of the island. Therefore, we need to make sure the protocol will work and that all the communities of Ireland are in support of it.

Lord Lamont of Lerwick (Con) [V]: Can the Minister explain why the EU could possibly think it reasonable to ban from Northern Ireland food that is legal in the UK and was legal both in the UK and in the EU when we were members of the EU? If it is because we now have a democratic right to diverge in standards, would it not be more reasonable for the EU just to wait and see if any divergence actually happens?

Baroness Scott of Bybrook (Con): My Lords, as we have set out, we want to work with the EU on pragmatic, long-term arrangements for the east-west trade, and that includes ensuring a permanent solution for those things that are moving—chilled meats in particular—from Great Britain to Northern Ireland.

Lord Kilclooney (CB): My Lords, at the time of Brexit, the Government announced that there would be 10 free ports in the United Kingdom. Last week, the Chancellor of the Exchequer named eight of these free ports but not one was in Northern Ireland. We had expected Larne, Belfast or Warrenpoint to be selected. Is the Northern Ireland protocol imposed upon us by the European Union now a barrier to a free port being selected for Northern Ireland?

Baroness Scott of Bybrook (Con): My Lords, I do not believe it is, but there are other parts of the United Kingdom also asking why they do not have a free port. I will take the noble Lord's question back and give him a fuller answer on the reasons this has happened.

Baroness Quin (Lab) [V]: My Lords, rather than the EU imposing the protocol upon us, the Prime Minister claimed ownership of it. For that reason, presumably he should try, in the short term, to make it work much better than it does at the moment. Rather than sniping at each other unilaterally, can the UK and the EU, together with the Republic of Ireland and the Northern Ireland Executive, through the Joint Committee and in other ways, find a consensual and practical way forward?

Baroness Scott of Bybrook (Con): My Lords, that is exactly what we are doing. We remain committed to our obligations under the protocol, but with a pragmatic and proportionate way intended. That is why we have made the changes we have made, and that is why we will continue to talk not only with Europe and the European Union but all the communities of Northern Ireland.

Baroness Ludford (LD) [V]: My Lords, because of the Government's unilateral actions regarding the protocol, the European Commission is set to launch legal proceedings for infringement. The European Parliament has postponed its ratification of the Trade and Cooperation Agreement, and decisions on data adequacy and financial services arrangements are put in jeopardy. Is it the Government's strategy to wreck the Northern Ireland protocol and end up with no Trade and Cooperation Agreement, hence securing the no-deal they actually wanted but will try to blame on the EU?

Baroness Scott of Bybrook (Con): No, my Lords, it is not. We understand the commission will write letters of legal action, which we are considering, but we will defend our position vigorously. Our measures are all lawful.

Lord Murphy of Torfaen (Lab) [V]: My Lords, legal action for megaphone diplomacy will solve absolutely nothing. What is needed is proper dialogue, proper discussion and proper negotiation. There is not a scrap of evidence that any of those things is happening. Will the Minister agree to liaise with the Secretary of

[Lord Murphy of Torfaen]
State for Northern Ireland and convene meetings with all the Northern Ireland political parties and their leaders as soon as possible? The only way through this is with the consent of all the communities and parties in Northern Ireland.

Baroness Scott of Bybrook (Con): I agree with the noble Lord that that is the way forward, and that is exactly what the Government are doing.

Lord Caine (Con): My Lords, on Saturday, my right honourable friend the Secretary of State for Northern Ireland told the Belfast *News Letter* that people in Northern Ireland are part of the United Kingdom and should enjoy the same products as people in the rest of the United Kingdom. I wholeheartedly support that position. Does my noble friend therefore agree that if the operation of the protocol is preventing that from happening, urgent change is required? Does she further agree that it is now EU intransigence on this subject that is destabilising the position in Northern Ireland and undermining unionist confidence in the Belfast agreement?

Baroness Scott of Bybrook (Con): My noble friend is absolutely right. We need to respond to the outstanding concerns of the protocol, but we must be able to command confidence across the whole community, and that is why we have set out the need to take forward work here in the Joint Committee. All sides must take account of the political sensitivities and the realities on the ground.

Baroness Hoey (Non-Afl): My Lords, the Prime Minister made a welcome visit to Northern Ireland a few days ago, when he made it very clear that the protocol had to be supported by both communities. Does the Minister understand that the pro-union community and all three unionist parties in Northern Ireland totally oppose the protocol? Will she accept that tinkering will not change that view and that, ultimately, the protocol is not sustainable and will have to go?

Baroness Scott of Bybrook (Con): No, the Government do not agree with the noble Baroness. We are not tinkering; we are listening to businesses and putting in place obligations and changes so that businesses can survive and the communities of Northern Ireland have the exact same services as the rest of the United Kingdom.

Baroness Goudie (Lab) [V]: My Lords, the priority is, beyond doubt, the preservation of the peace process and the Good Friday agreement. It follows that there must be no hard border across the island of Ireland. Is a sea border between the EU and Great Britain possible? As we have Brexit, there will have to be a Northern Ireland protocol. That is why the protocol must be maintained, and we must ensure that it works by having continual meetings.

Baroness Scott of Bybrook (Con): The noble Baroness is right; we must continue with meetings because the protocol is pragmatic and proportionate, and it takes account of the Belfast/Good Friday agreement in all its dimensions—north, south, east and west.

Lord Bruce of Bennachie (LD) [V]: Does the Minister accept that the Prime Minister knew, when he promised unfettered access during the election campaign, that that was untrue, which was even confirmed by the Government's website at the time? Is not the reality, as other noble Lords have said, that the protocol can be maintained only by abandoning hostile diplomacy and unilateral sustained breaches of signed agreements and engaging in a constructive, long-term relationship to reduce friction that cannot simply be eliminated by Northern Ireland's dual status?

Baroness Scott of Bybrook (Con): My Lords, I am going to repeat myself again: the important thing with Northern Ireland is that we keep talking, both with the communities of the island and with the European Union, to make sure that this protocol works.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has, sadly, elapsed. We now come to the third Oral Question.

India: Restrictions on Freedom

Question

1.29 pm

Asked by ***Lord Harries of Pentregarth***

To ask Her Majesty's Government what representations they have made to the government of India about reports of that government restricting the freedoms of (1) non-governmental organisations, (2) academics, and (3) other groups.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, India and the UK have proud democratic traditions, and human rights form part of our dialogue. In December and January, my noble friend Lord Ahmad raised concerns about NGOs and human rights activists with the Indian high commissioner. In February, British high commission officials discussed university restrictions with the Ministry of External Affairs. On 3 March, senior FCDO officials discussed UK parliamentary interest in restrictions on civil society groups in India with the Indian high commissioner.

Lord Harries of Pentregarth (CB) [V]: My Lords, to give just one of numerous examples, more than 24 Dalit rights activists are in jail on unproven charges, including an 80 year-old poet, Varavara Rao, and an 83 year-old Jesuit priest, Father Stan Swamy. When the Prime Minister's proposed visit to India is reinstated, will he draw Mr Modi's attention to the report of Freedom House published this week, in which India has been downgraded from a democratic, free society to one which is only "partly free"?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, our approach has always been to raise any concerns directly with the Indian Government. We will continue to engage India on the full range of human rights matters and raise our concerns where we have them—as we do—including at ministerial level.

Lord McConnell of Glenscorrodale (Lab): My Lords, in my view these reports of restrictions on freedom of expression and organisation in India follow directly from the decision in 2019 to end the autonomy of the people of Kashmir and impose severe restrictions there, locking up political leaders and ending freedom of expression. Do the Government agree that India cannot claim to be the world's largest democracy if it continues to restrict freedom of expression and freedom to organise? Will the Government make representations to India that, if it wants to be part of the democratic nations of the world, it must stick to these values rigidly?

Lord Goldsmith of Richmond Park (Con) [V]: As one of the world's largest democracies and one of the world's oldest, India and the UK have a broad and deep relationship. Long may that continue. On Kashmir, India and Pakistan are long-standing and important friends of the UK; we encourage both countries to engage in dialogue to find lasting diplomatic solutions to maintain regional stability. We are of course concerned by the lack of communication between India and Pakistan and its impact on tensions, but it is for them to find a lasting political resolution on Kashmir, taking into account the wishes of Kashmiri people. It is not for the UK to prescribe a solution or act as a mediator.

Baroness Northover (LD): My Lords, the Government of India are reported to consider human rights there an internal matter. Does the noble Lord agree that lessons from the 20th century in particular show that it is vital that the world pays attention to human rights, even within borders? If so, what representations have been and are being made to the Government of India on the forced closure of Amnesty International India and the freezing of its accounts?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, the right to peaceful protest is vital in any democracy and we encourage all states to ensure that their laws are in line with international standards. Any allegation of human rights violations is clearly very concerning and should be addressed. My noble friend Lord Ahmad of Wimbledon raised Amnesty International India's case with the Indian high commissioner on 1 December and FCDO officials have raised our concerns with the Indian High Commission. Just a few weeks before, we requested in our representations that Amnesty's accounts be unfrozen while the investigation is ongoing. We have noted the important role of NGOs in all democracies.

Lord Flight (Con): My Lords, until recently India has broadly upheld the democratic principles and traditions she inherited from the UK. It is now observable that the Indian Government have restructured some hitherto democratic freedoms in a number of areas, as the Question of the noble and right reverend Lord, Lord Harries, implies. My question is whether it is the task of Her Majesty's Government to raise this with the Indian Government, when the possible response might be that the UK is following a similar trend. It is also quite likely that the response will be that it is none of our business. Is this a major and not easily reversible stance?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, I hope I caught the question adequately. I hate to repeat myself, but our approach has always been and will remain one which involves taking our concerns directly to the Government of India. We do this; we have many discussions and a close relationship. We will continue to engage on the full range of concerns that have been raised on this Question and on others. We have always taken that approach and will continue to take it, as we feel it yields the greatest possible results.

The Earl of Sandwich (CB) [V]: My Lords, in the interests of cricket and fair play, does the Minister share my concern about the use of the Foreign Contribution (Regulation) Act and its very damaging effect on civil society and the mainstream aid agencies? Will HMG continue to complain regularly to the Modi Government about the imprisonment of journalists and the fear of persecution felt by non-Hindu minorities, Dalit activists, NGOs and all those campaigning against human rights violations?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, the UK is committed to media freedom, democracy and human rights all around the world. Independent media is a prerequisite to any vibrant democracy such as the UK and India. We regularly engage with India's vibrant media, including through the annual South Asia Journalism Fellowship programme under our flagship Chevening brand. This year we are supporting the Thomson Reuters Foundation to run workshops covering issues such as human trafficking, child labour and more. In July, my noble friend Lord Ahmad discussed the UK's commitment to promoting media freedom through the Media Freedom Coalition with India's Minister for External Affairs.

Lord Collins of Highbury (Lab): My Lords, the strong relationship with India, built on trust and mutual respect, should give us the confidence to play the role of a critical friend. That means stressing the importance of a free civil society in a democracy. Can the Minister say whether the Prime Minister will raise this issue not just through our connections with Ministers but with Prime Minister Modi at the G7?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, the Prime Minister will visit India shortly. That will be an opportunity to discuss a very wide range of bilateral and multilateral issues directly with the Indian Government. Of course, where we have specific concerns, the Prime Minister will raise them directly with the Government of India, as you would expect of a close friend and partner.

Lord Hussain (LD): My Lords, many reputable human rights organisations, including the UN Human Rights Council and Amnesty International, have reported that the Indian army in Kashmir is involved in illegal detentions, torture, rape and murder, with complete impunity under the Indian Armed Forces (Special Powers) Act. Tens of thousands of political workers and leaders, including Shabir Shah and Asiya Andrabi, have been held in prison without trial for decades under another notorious law called the public safety Act. Can the Minister tell us whether our Prime Minister

[Lord Hussain]
will make any representations to the Government of India to withdraw these draconian laws and free all Kashmiri political prisoners?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, I believe that the former Chief Ministers who have been detained under the public safety Act have now been released. We welcome the Indian Government's assurances that all those detained under the so-called preventive measures since August 2019 have now been released. We will continue to raise our concerns with the Indian Government where we have them.

Baroness Wheatcroft (CB) [V]: My Lords, it is very sad to see the retrograde steps being taken towards civil society in India and how NGOs are being shut down there. I speak as a former member of the UK-India round table, a bilateral organisation that fostered free and frank discussion on such issues between our two countries. It had a successful track record of achieving progress but in 2014, almost as the then Chancellor, George Osborne, visited India and said "Let us link hands" and "Embrace the future together", the round table was abandoned. Would the Government consider re-establishing this organisation that fostered strong links between our two countries at a level below government where people could actually speak freely?

Lord Goldsmith of Richmond Park (Con) [V]: My Lords, India—as the world's largest and, as I say, one of the oldest democracies—and the UK have a very deep and broad relationship. Our trade and investment partnership is thriving, and we collaborate on defence and security. Together we are a force for good in the world. The unique "living bridge" that George Osborne described at the time, including a 1.5 million-strong Indian diaspora in the UK, connects our countries across sport, culture, food and more. During the Foreign Secretary's visit to India in December, he agreed with his counterpart the key elements of the 10-year UK-India road map to deliver a step change in ambition for our relationships. We regard ourselves as friends, but as critical friends. We look forward to taking this plan forward into 2021.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed.

Prisons: Self-harm Among Women Prisoners

Question

1.40 pm

Asked by ***Baroness Eaton***

To ask Her Majesty's Government what steps they are taking to address the level of self-harm among women prisoners.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, we are determined to reduce the level of self-harm in the women's estate. We have established a women's estate self-harm task force to address this. Alongside interventions to mitigate the impact of Covid-19, such as increased video calls with loved ones, the task force is co-ordinating longer-term work—including the introduction of key workers, expanding therapeutic services and improving gender-specific training—to address the factors driving self-harm in the women's estate.

Baroness Eaton (Con) [V]: I thank my noble friend the Minister for his reply. Female offenders are more vulnerable than male offenders and benefit from help and guidance from social workers. One of the recommendations in the Farmer review of female offenders published in 2019 was to have a social worker based in all prisons to support vulnerable women. What progress has been made to achieve this?

Lord Wolfson of Tredegar (Con): My Lords, my noble friend raises an important point. We are working to improve the availability of social work in prisons. She will be aware, of course, that at the moment all prisons are hampered by the Covid-19 pandemic in what they can provide. However, for example, we have been able to reintroduce chaplaincy into prisons at a very significant level, and the relevant authorities are trying to ensure that all services, including social workers, can be reintroduced as well.

Lord Harris of Haringey (Lab) [V]: My Lords, the levels of reported self-harm are extremely concerning. Five and half years ago my review, *Changing Prisons, Saving Lives*, found that the despair that led to self-harm and suicide was exacerbated by prisoners being isolated without access to purposeful activity and sufficient contact with their families. Over the last year, what proportion of time have women prisoners been on regimes that meant that they were locked in their cells for 23 hours or more a day? What has been the impact of Covid on the number of face-to-face contacts they have had with their families?

Lord Wolfson of Tredegar (Con): The noble Lord asked two questions. On the first point, during the Covid pandemic, prison estates have tried to put in regimes which are as generous as possible given the surrounding circumstances. He will be aware, like everybody in this House, that those circumstances have changed rapidly from time to time, so the figures are not available because the data cannot accurately capture that constantly changing picture. So far as contact with family members is concerned, we have doubled the amount of phone credit given to prisoners, and we have introduced "purple visits"—video calls—so that prisoners can see their families and loved ones as well.

Lord Ramsbotham (CB) [V]: My Lords, is the Minister aware that correct nutrition can have a considerable impact on those considering self-harm? In asking this, I must declare an interest as president of the Institute for Food, Brain & Behaviour, one of whose fellows published an article on the subject as long ago as 1976.

Lord Wolfson of Tredegar (Con): My Lords, nutrition is obviously an important part of the picture, and perhaps it is a wider point than the noble Lord identifies.

People come into prison having suffered from poor nutrition, which reminds us that a lot of them are self-harming before they come into prison. Self-harm is not just something which happens in prison; it is a problem brought into prison from outside as well.

Baroness Fall (Con) [V]: My Lords, we hear that self-harm by women in prison today has increased by an alarming 8%. We know too that 60% of women in prison today have experienced domestic abuse. The vast majority in prison are held for non-violent offences on short custodial sentences, and many of these women go on to reoffend—a destructive and costly cycle. Does the Minister agree that short custodial orders should be a last resort and that we must seek alternatives, where appropriate, within the community? Will he inform the House on the progress made to pilot five residential women's centres, as set out in the Government's *Female Offender Strategy*?

Lord Wolfson of Tredegar (Con): My Lords, the short answer to my noble friend's first question is yes. The reason is that women generally commit less serious offences than men; therefore they get shorter custodial sentences. Short custodial sentences are a problem because they can have significant negative impacts, in terms of family, losing accommodation and losing employment, while not really giving prison governors and the authorities an opportunity to do anything meaningful with regard to rehabilitation. So far as the first residential women's centres are concerned, we announced that our first one will be in Wales. I am particularly pleased—if I may say so—that a suitable site in south Wales is now being looked at for the second site. That will provide a robust community alternative for women who would otherwise receive a very short custodial sentence.

Lord German (LD) [V]: Women prisoners engage in self-harm as a method of coping with being in prison and separation from their children, of whom they are probably the main carer. At the moment, without visits, and with increasing numbers held on remand and in solitary confinement, why have the Government not made use of their own early release scheme, which ground to a halt last year? Can the Minister tell the House how many times in the last year the 42-day maximum solitary confinement rule has been breached for women prisoners—or does 23 hours locked alone in a cell not count as solitary confinement?

Lord Wolfson of Tredegar (Con): My Lords, we should not proceed on the basis that self-harm is something which starts in prison. On the contrary, a number of women—perhaps many women—have been using self-harm to cope for many years. That is exacerbated, no doubt, in the prison environment. We have to remember when we talk about the incidence of self-harm in prison that this is characterised by a small number of women who self-harm multiple times. That does not mean that it is not a problem; it means that we need to focus our resources on that relatively small number of women who self-harm repeatedly. The noble Lord asked for particular statistics; I will have to write to him on that matter.

The Lord Bishop of Gloucester [V]: My Lords, as has been said, anxiety is considerable for mothers in prison. The Visiting Mum scheme in HMP Eastwood Park found that the incidence of self-harm reduced when women had regular support contact with their children. What are the Government doing to ensure that motherhood is properly highlighted in pre-sentencing reports and that prison sentences are not used for mothers when a community-based intervention would be appropriate—as just highlighted by the Minister himself?

Lord Wolfson of Tredegar (Con): My Lords, whether somebody is a mother ought to be a factor in any pre-sentencing report. However, with great respect to the right reverend Prelate, we cannot have a rule that, merely and solely because someone is a mother, they can never be sent to prison. We are trying to ensure that mothers can maintain contact with their family, and in particular their children. As I said earlier, during the Covid-19 pandemic we have set up video calls, because our research shows, and the feedback indicates, that seeing children on the screen is a very different experience from merely listening to them on the telephone.

Lord Garnier (Con) [V]: My Lords, I refer to my trusteeship of the Prison Reform Trust, set out in the register. The recent PRT report *What About Me?*, on the impact on children when mothers are involved in the criminal justice system, highlighted the damaging but unsurprising consequences for children when their mothers are in prison. But will my noble friend agree that what is more surprising—and plain shocking—is that in a Written Parliamentary Answer to a Question in January 2018, the Parliamentary Under-Secretary of State for Justice stated that the number of women with children under 18 when sentenced is

"not held centrally and can only be obtained at disproportionate cost."

How can a civilised prison system counter the incidence of self-harm if it does not know basic information such as that?

Lord Wolfson of Tredegar (Con): My Lords, my noble and learned friend raises an important point. As I said, one of the factors in self-harm is, no doubt, being separated from one's children. One would therefore want to know how many women in prison are mothers, and indeed how many children they have. Perhaps I can undertake to look into the particular point which my noble and learned friend has raised and write to him on it.

Lord Ponsonby of Shulbrede (Lab) [V]: My Lords, given the stark 24% rise in self-harm by women in prison in the most recent Ministry of Justice statistics and the need for a whole-system approach to address substance misuse, stable housing and abusive partners, what measures are the Government advocating for the probation service to adopt to give sentencers the confidence to use community-based sentences? As we are coming out of lockdown, when will probation be able to offer women offenders on community sentences full access to face-to-face interventions and the support that is expected by the sentencers?

Lord Wolfson of Tredegar (Con): My Lords, on the noble Lord's first question, we remain committed to the strategy set out in the *Female Offender Strategy*: that is, fewer women offending and reoffending, with a greater proportion of women managed in the community successfully, and therefore fewer women in custody and better conditions for those in custody. Through the community sentence treatment requirement programme, health and justice partners are working together to ensure that greater use is made of mental health, alcohol and drug treatment requirements as part of community sentences. On the second part of the question, on probation, given the pandemic, probation areas are working on their recovery plans and will gradually be recovering their service in line with the staged approach that is being taken by Her Majesty's Government generally.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed, and that brings Question Time to an end.

1.52 pm

Sitting suspended.

Arrangement of Business

Announcement

2 pm

The Deputy Speaker (Lord Haskel) (Lab): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing.

Business of the House

Order of Commitment

2.01 pm

Tabled by ***Baroness Evans of Bowes Park***

That the National Security and Investment Bill be reported from the Grand Committee in respect of proceedings up to and including Tuesday 9 March; and that the order of commitment of 4 February be discharged and the remainder of the bill be committed to a Committee of the Whole House.

Lord Ashton of Hyde (Con): My Lords, on behalf of my noble friend the Leader of the House, I beg to move the Motion standing in her name on the Order Paper.

Motion agreed.

Procedure and Privileges Committee

Motion to Agree

2.02 pm

Moved by ***The Senior Deputy Speaker***

That the Report from the Select Committee *Private Members' Bills ballots; Extending Secretary of State's questions* (7th Report, HL Paper 237) be agreed to.

The Senior Deputy Speaker (Lord McFall of Alcluith) [V]: My Lords, I beg to move that the seventh report from the Procedure and Privileges Committee be agreed to. The report concerns two issues which the committee agreed to put to the House following its meeting on 2 March. The first is Private Members' Bills ballots at the beginning of a Session, where we suggest a more streamlined approach which focuses resources better on the preparation of the Bills which are most likely to be considered in the House. The second is to extend what are currently Oral Questions for Secretaries of State sitting in the Lords to include departmental Ministers sitting in the Lords who are full members of the Cabinet. This extension would enable the House to question regularly the noble Lord, Lord Frost, on his ministerial portfolio, following his appointment as a full member of the Cabinet at the beginning of this month. Should the House agree to the Motion before it, it is envisaged that the first such Question Time would take place on Thursday 25 March, and a ballot for questions to be taken that day has been opened today in the Table Office. I beg to move.

Lord Cormack (Con): My Lords, I have just one question. I must declare an interest: I have a Private Member's Bill, the referendums Bill, which is first in the queue for consideration dating from the last ballot. Of course, we have not been able to have debates on any of those Bills because of the striking of Covid a year ago. Can the Senior Deputy Speaker tell the House whether the intention is to roll over the ballot that has not been fulfilled from last year or whether there is going to be a new ballot at the beginning of the next parliamentary Session?

The Senior Deputy Speaker (Lord McFall of Alcluith) [V]: I thank the noble Lord for the question. My information at present is that there will be no rollover; there will be a new ballot, but I will confirm that to the noble Lord in writing.

Motion agreed.

2.04 pm

Sitting suspended.

Arrangement of Business

Announcement

2.30 pm

The Deputy Speaker (Lord Haskel) (Lab): My Lords, the Hybrid Sitting of the House will now resume. I ask Members to respect social distancing.

I will call Members to speak in the order listed. Short questions of elucidation after the Minister's response are discouraged. Any Member wishing to ask such a question must email the clerk. The groupings are binding. A participant who wishes to press an amendment other than the lead amendment in a group to a Division must give notice in debate or by emailing the clerk. Leave should be given to withdraw amendments. When putting the question, I will collect voices in the Chamber only. If a Member taking part remotely wants their voice accounted for if the question is put, they must make this clear when speaking on the group.

Domestic Abuse Bill

Report (3rd Day)

2.31 pm

Relevant documents: 21st and 28th Reports from the Delegated Powers Committee

Amendment 66B

Moved by ***Lord Randall of Uxbridge***

66B: After Clause 71, insert the following new Clause—

"Criterion that may not be used in deciding what classes of persons are not qualifying persons

(1) In deciding what classes of persons are not qualifying persons under section 160ZA(7) of the Housing Act 1996 ("the 1996 Act") (allocation only to eligible and qualifying persons: England), a local housing authority in England may not use the criterion set out in subsection (2).

(2) The criterion is that a relevant person must have a local connection to the district of a local housing authority.

(3) A relevant person is a person who—

(a) is, or has been, a victim of domestic abuse within two years of the date of their application for an allocation of housing under Part 6 of the 1996 Act; or

(b) has recently ceased, or will cease, to reside in accommodation provided by a local authority in an area in which they have been subjected to domestic abuse and where—

(i) the victim of domestic abuse has fled, or will flee, their local area; and

(ii) the purpose of fleeing was, or is, to escape domestic abuse.

(4) In deciding upon the allocation of housing to a relevant person, a local housing authority may not consider the location or whereabouts of the perpetrator of the domestic abuse."

Lord Randall of Uxbridge (Con) [V]: My Lords, when we finished our proceedings last Wednesday, I had just spoken to a previous amendment that raised the issue of acknowledging local connection for those victims of domestic abuse who require housing. As we finished—it was rather late—I thought that my Amendment 66B, which I tabled subsequently to address the issues that my noble friend raised about social housing, was not going to be reached. However, by some quirk of luck, I find myself able to talk to it now.

Previously, I raised the potentially discriminatory way in which local authorities use local connection restrictions when responding to victims of domestic abuse who present as homeless or at risk of homelessness. My noble friend's answer the other evening, and indeed in Committee, again focused on the fact that existing guidance should prevent this happening. However, evidence from domestic abuse services shows, sadly, that this is just not the case. I am particularly grateful to Women's Aid for helping me and showing me examples of where this does not work. The guidance is exactly that and it is not producing the results that I think we all would like.

This new amendment addresses this issue of victims being denied social housing allocations because they have no local connection. Often, women who have escaped to a refuge need to resettle in a new area or a neighbouring one as they are still at risk in the area they fled. Women's Aid estimates that

"over two thirds of women resident in refuge services in England had come from a different local authority area."

Again, there is government guidance. It makes clear that

"those who have fled to a refuge in another local authority area are not disadvantaged by any residency or local connection requirements"

when accessing social housing. However, I contend that domestic abuse services continue to report that local authorities require a woman to have a local connection with their area to apply or be prioritised on letting systems.

The Government already require local authorities, when allocating housing, to make exemptions for certain groups from these local connection requirements or residency tests; this includes members of the Armed Forces and people seeking to move for work. I remember well from my caseload as a constituency MP that these exemptions exist. I am asking the Government and my noble friend: why is the same exemption not in place for victims of domestic abuse relocating for the purpose of safety? I acknowledge that there is guidance, but there is not the requirement.

It is also critical to recognise that, when women and children escape to a refuge, they start to build connections and support networks in that new area; these are vital for their ongoing recovery. After experiencing unimaginable trauma and the uprooting of their lives, children will have started to settle into nursery and school. The inconsistent way in which these survivors are then treated when seeking to access long-term housing leads to further disruption and insecurity. Again, the guidance is not doing enough in this area, I am afraid. It is vital that this law sends a clear message that local connection rules or residency requirements must never apply to allocations of social housing for victims of domestic abuse.

I want briefly to draw attention to a case study from a Women's Aid member service that highlights the urgency and importance of my amendment:

"A has experienced domestic abuse for the last 10 years from two partners as well as witnessing domestic abuse perpetrated by her father against her mother growing up. She has been diagnosed with depression, anxiety and PTSD. After fleeing her abusive partner with three children, she moved into a refuge in a London borough to be near her mother, who was her main source of support. She was only able to find a refuge in a different borough to her mother, and after six months she was required to leave that refuge. She presented to the borough her mother lives in, but she was informed she was not entitled to be housed there as she did not have a local connection. The local authority stated she had a local connection to the borough she had been living in for six months. This is despite her being a survivor of domestic abuse, having no option other than to live in the first borough where a refuge space was available at the time of fleeing and the fact that she felt at risk from the perpetrator's extended networks there.

The borough her mother lived in then housed A and her three children, who were all under 14, in one room in mixed-sex temporary accommodation. This was extremely distressing for her. She describes feeling retraumatised from the experience of being forced to live alongside men she did not know. She also felt scared for her children, who did not feel safe in the mixed-sex hostel. The room was highly unsuitable as the entire family lived in it and were required to cook in it, which is of course unsafe for a toddler. Another child had ADHD, so A struggled to provide them with any quiet time and appropriate support. This experience also exacerbated her PTSD, depression and anxiety, and she reported feeling low and stressed regularly due to feeling unsafe in the accommodation. She is now having to live there indefinitely while the boroughs have been assigned an arbiter to decide who has a duty."

[Lord Randall of Uxbridge]

I do not think that anybody could agree that this is a satisfactory situation. I urge my noble friend and Her Majesty's Government to seek to put an amendment such as mine in the Bill to ensure that these sorts of examples do not occur again.

Baroness Deech (CB) [V]: My Lords, I will speak to Amendment 87C, which I may press to a Division.

Last week, public discussion following the tragic death of Sarah Everard tended to emphasise that it is not for women to limit their freedom because there are violent men around—rather, that it is men who should change their behaviour and be educated into civility.

This amendment has a similar bent. It too is about shifting the burden of suffering from abusive behaviour away from the victim and on to the perpetrator. We are all agreed on the principle and I am grateful to the Minister for meetings and correspondence. The principle is that of ending the tenancy enjoyed by the perpetrator in social housing and leaving the victim in occupation, with that tenancy vested in her—if it is "her" because obviously this works both ways.

The only remaining issue is how best to draft this. It is common sense to leave the victim, possibly with children, in her home and make the perpetrator leave. It is cheaper too because rehousing the abused parent could cost from £3,000 to £11,000. We know that women's refuges are overcrowded and short of funding. The pressure on them would be infinitely less if the woman could stay at home and not have to run away. This scheme is being tried out in Scotland and already operates in several Australian states. The Renting Homes (Wales) Act 2016 provides for the transfer of the interest from one joint tenant to another. The amendment says that if the victim applies to the court, the perpetrator may be removed as a joint tenant, provided that the tenancy is affordable for the victim. The tenancy shared by the victim and the perpetrator would be severed and the perpetrator's tenancy would vest in the victim and any other joint tenant. The tenancy would continue in the name of the victim, but the perpetrator would remain liable for rent arrears incurred before the eviction.

Social housing providers can support the victim in managing debts, and they might even consider it right to rehouse the victim immediately in other suitable property. In the rare case where there are other joint tenants, their interests need to be considered, for their share of the housing costs might rise. The change in tenancy should have no effect on the landlord, but he or she could make representations to the court during the application process. No objections have been received so far from landlords who have been consulted by domestic abuse support organisations. Indeed, this amendment has been welcomed by the domestic abuse commissioner, the Local Government Association, Women's Aid and related organisations.

The drafting needs to ensure that the perpetrator retains liability not only for rent arrears before he loses his tenancy but, for example, for damage he might have caused to the property. I respectfully disagree with the Minister's concern that common law stands in the way of reassigning the property and the liabilities, because the statute would override common law. There are no human rights concerns as mentioned by the Minister. Protocol 1 of Article 1 of the European Convention on Human Rights, which protects property enjoyment, is subject to the right of the state to interfere when necessary in the public interest. Indeed, it is the property enjoyment rights of the victim that would be interfered with if she is driven out by the violence of the perpetrator. Article 6 provides that there should be a hearing before deprivation of a civil right, and so there will be, because the perpetrator has the right to representation in the court proceedings.

Moreover, it has been possible for a long time for an English court to act ex parte; that is, on hearing only one side where there is an urgent case. When no-fault divorce comes into force this autumn, one of life's most important civil rights, that of staying married, will be terminated at the will of one party with no right for the other to defend or have any say in it. That has been accepted as legitimate—rather surprisingly. A rather lesser upheaval, in this case eviction, can be managed safely without any infringement of human rights, as can any fears about Article 8—the right to a private and family life. It is the victim's rights that have been disrupted and that article goes on to say that the right may be interfered with in order to protect other people's rights or in the public interest.

I will give noble Lords chapter and verse. Article 3 of the human rights convention prohibits "degrading treatment". The European Court of Human Rights has held that the state had failed to provide the victim with immediate protection against a husband's violence in a case concerning Slovakia, and that offended against the prohibition of degrading treatment. On Article 8—the right to family and private life—the European court held that this had been breached by Bulgaria and Ukraine, among others, because the state had not helped the victim. It is the victim's right to family life which the perpetrator has destroyed. In a 2010 case involving the United Kingdom—JD and A v the United Kingdom—the court held that the victim's property rights were violated and that she should stay put. This was about Protocol 1—the right to property. The Government themselves do not consider that there is any Article 6 breach, covering the right to trial, in their Explanatory Memorandum. That is because the perpetrator has the opportunity to make representations at a subsequent hearing. That was in a case called Micallef v Malta. All human rights as listed are subject to interference in the public interest and proportionality, so there need be no concerns at all about human rights. Let us remember that it is the victim's human rights that have been violently disrupted.

2.45 pm

Given the complexities of getting the drafting absolutely correct, especially as regards third-party and property interests, the path through consultation is acceptable, provided that the Minister will give absolute guarantees that this is to be completed within months and that the opportunity is seized in the next appropriate Bill to insert this amendment. I believe that a renters Bill is on the horizon which would provide a good vehicle. I understand also that the consultation can take place swiftly, but so often it is the response from the Government that drags these things on. We do not consider it a

good idea to wait to see how a similar provision is working in Scotland. I have heard the "Let's wait for Scotland" excuse so often in relation to other proposed reforms that it always puts me in mind of "Waiting for Godot". I hope that the Minister will accept this way forward and put strict time limits on any consultation. I will seek to divide the House on this amendment.

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, I wish to speak to Amendment 87C and to support all the arguments made so powerfully by the noble Baroness, Lady Deech. I declare an interest as the chair of the National Housing Federation, which is wholeheartedly behind this amendment as a means of protecting families and providing survivors with a choice to determine their own future.

Some very strong arguments were made in Committee on joint tenancies and those of us supporting this amendment were grateful for the opportunity to discuss the arguments with the Minister. I know that he is sympathetic to what we are seeking to achieve. I hope that he will focus on the need for what is called a "whole housing approach" to improve the housing options and outcomes for people experiencing domestic abuse so that they can live independently in a safe and stable home as a first step to overcoming abuse and its devastating impact.

Rather than repeating the points I made in Committee, I want to focus on what can be done by housing associations and social landlords to support those suffering abuse, since they are well placed to recognise the signs in their residents, including economic abuse, which create pressure on their tenancy. Case studies gathered by the National Housing Federation show the impact that housing officers with the right training can have in identifying domestic abuse. I will give just one case. During a meeting to discuss rent arrears, a housing officer adopting what is called a "trauma-informed approach" was able to identify the signs of abuse and became the resident's main source of support, including during a police investigation, working with adult and child social care to ensure that the resident had access to all the help they needed. The resident was able to retain their tenancy, and in this case the abuser did not resist the change. In fact, they chose to relocate from the property linked to the abuse and, 18 months later, the housing officer continues to support the resident. In this instance, the survivor was successful in achieving what she needed and had a choice. In so many instances where there is a joint tenancy, this is not possible. As was said in Committee, the perpetrator must agree to the transfer of the tenancy if the survivor wishes to remain in the family home as the sole tenant. There are so many instances where he—and it is usually he—refuses.

Social housing providers have no legal mechanism to evict the perpetrator. This amendment, carefully crafted, allows the joint tenancy to be transferred in a simplified way to a sole tenancy. As we have heard, it is a more modest measure than that already proposed in Scotland, and I hope the Minister will consider that when he comes to reply. I know that he will listen carefully to this debate. We know that he is sympathetic to what we want to achieve and I hope he will accept this modest but far-reaching amendment.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Warwick of Undercliffe, who added powerful examples to the already clear and strong examples from the noble Baroness, Lady Deech, and the noble Lord, Lord Randall, as to why we should agree both these amendments. I will not detain the House for long, but I want to strongly express the Green group's support for these two amendments.

The logical way to take them is in the opposite order to that in which they are numbered. Amendment 87C, in the name of the noble Baroness, Lady Deech, and with strong cross-party support, expresses the ideal situation which, we have been told, is already being created in Scotland, with even stronger support for victims of domestic abuse. It is for people to stay in their own homes and communities and, very often, for children to stay in the schools that they are used to, with their friends. This is obviously the right thing to do to support victims of domestic abuse and to ensure that abusers do not profit from the situation, as they are often left with the home, tenancy, control and their place in the community.

Amendment 66B, moved by the noble Lord, Lord Randall of Uxbridge, acknowledges that that is simply not always possible. Victims of domestic abuse, having fled to refuges, may have started to establish themselves in a new place, possibly on the other side of the country, and have started to make friends, and children have become used to schools. The amendments make an excellent package—in this case, the grouping works—to provide a bit more wraparound and support for the victims of domestic abuse, for whom we are all spending so many hours in your Lordships' House trying to make this the best Bill it can be. These two amendments, or something very like them, are needed to make this the Bill that it should be, so I commend them to your Lordships' House.

Lord Young of Cookham (Con): My Lords, I begin by commending my noble friend Lord Randall for the case he made for Amendment 66B. I look forward to the Minister's reply on that. The case for Amendment 87C was capably made in Committee by a number of noble Lords and reinforced today by the noble Baronesses, Lady Deech, Lady Warwick and Lady Bennett. I will not repeat it, except to gently remind the Minister that in Scotland they have gone further than our modest amendment in giving security to victims of domestic abuse, even when they are not a joint tenant.

I want to focus on what has happened since Committee, and begin by thanking my noble friend Lord Parkinson for his patient and sympathetic approach in seeking to find a way forward. In his wind-up speech in Committee, he recognised that our amendment would simplify the current complex and uncertain legal mechanism available to victims, and would prevent perpetrators from exerting control over a victim. That was enormously helpful.

In our letter dated 15 February, we sought to address the concerns that he expressed on five separate issues. In particular, we amended the section on responsibility for arrears to clarify that the perpetrator remains liable for arrears before the joint tenancy is terminated. Then we added subsection (11) to the new clause proposed by the amendment, to give the Government

[Lord Young of Cookham]
time to assess progress in Scotland. We had a meeting with my noble friend earlier this month, for which again I am grateful, and he replied to our letter last week, in which he repeated his sympathy for the motives behind the amendment.

So where do we go from here? If there are defects in our drafting, we know that the Bill will go back to the other place, so there will be an opportunity for the Government to tidy it up. My preferred solution would be for the Government to accept the amendment, tidy it up in the other place and implement it as soon as it is successfully rolled out in Scotland.

I would understand the disappointment if the Government were to resist but, if they do, with some reluctance I would consider the more cautious approach suggested in my noble friend's letter and referred to by the noble Baroness, Lady Deech, in her opening speech—namely consultation. I am not entirely convinced that this is necessary but, subject to some strict conditions—an early start date, a reasonable but not protracted time for consultation and a decision by the Government by the autumn—the proposition is worth reflecting on. The option would be even more attractive if there was also a commitment to include the necessary measures in the first relevant piece of legislation, be it on rights for renters or leasehold reform, both of which are likely to feature in the next Session. I will listen with more than usual attention to my noble friend's response at the end of this debate, before deciding how best to proceed.

Baroness Burt of Solihull (LD): My Lords, first, I am happy to add my support to Amendment 66B in this group, from the noble Lord, Lord Randall. I am somewhat mystified as to why it was not included with Amendment 66A, to which I also added my name but was not present in the House at the beginning of the debate to speak to it. I take this opportunity to apologise to the noble Lord and the House for this confusion on my part. I hope that the Minister will enlighten the House as to why Amendments 66A and 66B were not dealt with together.

Just as Amendment 66A concerned hard-pressed authorities using their local connection rules to deny refuge places to victims and their families fleeing to another area, Amendment 66B deals with another criterion, "qualified persons" who want more permanent accommodation in their new area. Guidance is not a requirement and guidance is not enough. The case study given by the noble Lord, Lord Randall, speaks more eloquently than anything I could say in cogently making this point.

I have also added my name to Amendment 87C on joint tenancies. The noble Baroness, Lady Deech, explained the amendment well, including the human rights implications. I start by expressing my gratitude to the Minister for the lengths that he and his team have gone to in investigating the practicalities of this amendment. I have no doubt of his sympathy for what it seeks to achieve.

The supporters of the amendment, assisted by Women's Aid lawyers, have further amended our amendments proposed in Committee, in accordance with the points that the Minister made to us subsequently, including liability for debt if the perpetrator is removed from the tenancy, the interests of third parties and the interests and rights of the perpetrator.

In subsequent discussions with us, the Minister said that the Government would like time to assess how the implementation of a plan in Scotland similar to that which we propose will fare. But there are three issues with this. First, the changes in Scotland are not the same; they are much wider ranging than our comparatively modest proposal, so they will not be comparing the same thing. Secondly, property law is different in Scotland, so that will have to be factored in. Thirdly, it could take years before the implementation of the Scottish version is fully assessed. If it is or is not successful, how much will that tell us, given the differences that I outlined in the first and second points? We could potentially lose a huge amount of time for very little gain, given the prospect of a suitable Bill coming as a vehicle to implement it.

More promisingly, the Minister has offered a public consultation to help resolve some of the technical issues that he has raised in meetings and correspondence with us. This would bring interested parties from all sides of the argument to contribute and work together to find a solution fair to all. I am attracted to this idea, because I acknowledge that we are treading in quite a legally complex area, which incorporates several different aspects of the law. He tells us, in his most recent letter, when the consultation will start—this summer—but not when it will end, and he has not indicated any further steps to be taken and when they might take place.

Having been a Member of your Lordships' House and the other place for over 15 years now, I have watched many times in frustration as consultations drag on for years, eventually for so long that the proposals under question can be forgotten and quietly dropped. So, if this kind offer of consultation is accepted, we would need some assurances on time. For example, an assurance that the Government would strive to have proposals in place in time for the next piece of appropriate legislation—say, for example, the renters Bill. The noble Baroness, Lady Warwick, reinforced the important role that housing associations and social landlords can play. Could the Minister give the House this assurance today?

3 pm

I hope that the Minister will agree with the noble Lord, Lord Young, and accept the amendment and tidy it up before presenting it to the Commons. We await his answer with bated breath, and if the noble Baroness, Lady Deech, decides to test the opinion of the House, I and my party will support her.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I first declare that I am a vice-president of the Local Government Association, chair of the Heart of Medway housing association and a non-executive director of MHS Homes Ltd.

I am pleased to offer my support for Amendment 66B, proposed by the noble Lord, Lord Randall of Uxbridge. As the noble Lord set out, victims of domestic abuse can often endure lifelong risk from perpetrators, even when a relationship comes to an end. The noble Lord is doing a good job of highlighting that, where victims

want to get away from their perpetrators, the actions of some local authorities can make that difficult or impossible and that that should not be the case. The noble Lord has highlighted a very important issue.

I was delighted to add my name to Amendment 87C, proposed by the noble Baroness, Lady Deech, and if she is minded to divide the House, then these Benches will support her. In many ways, the amendment deals with the other side of the coin in respect of tenancies. Where a victim wants to stay in their home and a landlord is either the local authority or a private registered provider of social housing, the amendment would give the victim the power to apply to the county court for an order to remove the abuser as a joint tenant, and clearly sets out the approach the court must take.

Both these amendments are about enabling the victim to make the choice they want to, putting the power of choice in their hands—the choice that affords them and their children the protection they need and want. We all know that domestic abuse is all about power and control, and these amendments are about taking steps to address the balance and support victims, so that they can start rebuilding their lives. I thank the noble Lord, Lord Parkinson of Whitley Bay, for his engagement on the issue; it is very much appreciated.

The noble Baroness, Lady Burt of Solihull, set out carefully why the option to wait and see what happens in Scotland is not particularly attractive to us. If we are going to accept the offer of consultation, we will need very clear timescales. I have raised many times before the whole range of government consultations that we never seem to get to the end of, so I do not think a consultation in itself is sufficient; we need very clear timescales. I will wait to hear the noble Lord's response, but I repeat: if the noble Baroness wants to test the opinion of the House, then these Benches will support her.

Lord Parkinson of Whitley Bay (Con): My Lords, these two amendments deal with two separate aspects of housing law. The noble Baroness, Lady Burt of Solihull, asked why they have been glued together and why we could not take Amendment 66B with 66A. The simple reason is that it was tabled too late to do so, as my noble friend Lord Randall of Uxbridge accepted in his speech on the previous day of Report, but I am very glad that we are able to take it as first business today, on the third day of Report, and pick up where we left off.

As my noble friend Lord Randall of Uxbridge explained, his Amendment 66B seeks to prevent local authorities applying a local connection test to victims of domestic abuse when applying for social housing. Since 2012, local authorities have had the power to decide who qualifies for social housing in their area. Many local authorities use their qualification power to apply a local connection test to social housing, and statutory guidance published in 2013 generally encourages them to do so. However, the guidance also advises local authorities to consider making appropriate exceptions, including for people moving into an area to escape violence or harm. Additional statutory guidance was published in 2018 which strongly encourages authorities not to apply a local connection test to victims of domestic abuse who have escaped to a refuge or other form of safe temporary accommodation.

Despite this, as my noble friend pointed out, there is anecdotal evidence from the domestic abuse sector that some local authorities continue to disqualify victims of domestic abuse from social housing where they do not have a local connection. I understand and sympathise with the motivation underlying the amendment, which is to put that matter beyond doubt. However, the Government have some concerns with my noble friend's amendment as drafted. A key concern is that the new clause it proposes would prevent a local authority considering the location of the abuser. We believe that that is an important consideration which the local authority should be able to take into account to ensure that the victim does not inadvertently end up living close to their abuser, which of course would undermine the purpose of the amendment and what my noble friend is seeking to achieve.

We have, however, listened carefully to and reflected on the points put forward by my noble friend Lord Randall of Uxbridge on the use of a local connection test. We want to make absolutely sure that victims and survivors of domestic abuse who need to move to another local authority area are not put at a disadvantage when seeking a social home. I am pleased to be able to give a commitment today that we will consult on regulations to prevent local authorities applying a local connection to victims of domestic abuse applying for social housing. The consultation will consider the scope of regulations and the circumstances in which the exemption would apply. We believe that this level of detail is best left to secondary legislation, and we have existing powers to make such regulations.

Consultation will provide the opportunity to engage with the domestic abuse sector, survivors and local authorities, to follow up on the anecdotal evidence which my noble friend has outlined, and to ensure that all their interests are considered and that the regulations achieve the desired aim of improving the protections for victims of domestic abuse.

Turning to Amendment 87C, as the noble Baroness, Lady Deech, has explained, this seeks to allow victims of domestic abuse who have a joint social tenancy with their perpetrator to transfer the tenancy into their own name. It also seeks to prevent the perpetrator ending the tenancy unilaterally. I am grateful to the noble Baroness and other noble Lords for bringing this issue to our attention again, and for the constructive conversations and engagement that we have had on this issue since Committee. We recognise and are sympathetic to the concerns which lie behind this amendment. We understand that, in the case of domestic abuse, the rules on terminating periodic joint tenancies may have the potential for perpetrators to exert further control over their victims. The amendment is intended to address this problem and enable the survivor to remain in the family home.

The proposed new clause would apply to social tenancies—both local authority and housing association ones. Most social tenants have lifetime tenancies, meaning that the tenant cannot be evicted provided that they comply with the terms of the tenancy. For this reason,

[Lord Parkinson of Whitley Bay]
a social tenancy can be an extremely valuable asset. That is why we are including provisions in the Bill which seek to provide security of tenure for victims of domestic abuse who have a lifetime tenancy and are granted a new tenancy by a local authority for reasons connected to that abuse.

Currently, where any joint tenant of a periodic tenancy serves a notice to quit, the law provides that the whole tenancy ends and that the landlord can seek possession of the property. This is a long-standing rule, established through case law and recently upheld by the Supreme Court in the 2014 case of Sims v Dacorum Borough Council. The rule seeks to balance the interests of each joint tenant as well as those of the landlord. This means that if a victim of domestic abuse has a joint tenancy with the perpetrator and has fled their home to escape abuse, they would be able to end the tenancy to ensure that they are no longer bound to a tenancy with their abuser.

When we debated this issue in Committee, I explained that the Government had several concerns with the amendment that had been tabled. I am grateful to the noble Baroness, my noble friend Lord Young of Cookham and all the other noble Lords who have spoken today for meeting me to discuss those concerns in greater detail with officials—I thank them too for their time and work on this. I note that the new amendment seeks to address some of the concerns that we outlined and discussed. In particular, the amendment now provides for notice of the application to be given to the perpetrator, the landlord and any other tenant. In addition, it deals with the issue of joint and several liability by providing that the perpetrator remains responsible for any rent arrears or other liabilities accrued before the court order for transfer is made.

However, we continue to have some concerns about the amendment, even as redrafted. It cuts across a number of long-established principles of common law—for instance the principle that an individual cannot be "removed" from the joint tenancy or cannot relinquish their share, as well as the rule on the termination of periodic joint tenancies, which I mentioned a moment ago. Given that these rules have wider application, we believe that it is important that any changes be considered in the round.

The amendment would introduce some new concepts to an already complex area involving not just common law, as the noble Baroness, Lady Deech, mentioned, but housing law, contract law, family law, and matrimonial law. The history of litigation in the field of housing in particular means that we would want to consider very carefully the introduction of concepts of removal from a tenancy and a tenancy continuing as if one joint tenant had never been a party to it in order to think through the possible implications fully. I hope noble Lords will understand how important it is that any changes do not have unintended consequences in this complex area of legislation.

A key concern is that the amendment still fails to provide for how the interest of third parties might be taken into account by the court, including the landlord, any other joint tenant, or any dependent children. It is for landlords to decide whether to grant a tenancy for their property and on what basis. They may decide to grant a joint tenancy for a number of reasons, including affordability and because joint tenants are jointly and severally liable for paying rent or looking after the property. However, the amendment would mean that the number of tenants could be changed without consideration or consent from the landlord as the owner of the property.

We absolutely concur that it is essential for survivors of domestic abuse to have access to a safe and stable home. However, social landlords have to balance difficult decisions. In some cases where a property may no longer be suitable, or indeed safe, for a survivor to remain it might be more appropriate for a social landlord to offer a survivor of domestic abuse a tenancy on a different property.

In addition, the amendment could result in interference with a housing association landlord's own rights under human rights law. Since this engages other parties' human rights, including those of the perpetrator, we need to carefully consider the right approach to balance those rights, and to ensure that any interference is proportionate and justified. We also have some concerns about whether the proposals are sufficient for the purposes of the perpetrator's Article 8 right to respect for home and family life. I completely agree with the noble Baroness, Lady Deech, that the victim's rights should be uppermost in our minds, but these are considerations that a court must take into account in possession proceedings. In addition, the requirement for the court to make an order "if not opposed" is unusual.

We have listened carefully to and reflected on the points raised by this amendment and during our previous debates. We want to consider the different issues and interests carefully, including the human rights case law that the noble Baroness mentioned, to ensure that any solution has the intended outcomes for all parties concerned. That is why I am pleased to give a further commitment today, as I did in my letter to noble Lords, that we will carry out a public consultation on this issue to help us better understand the complex legal and practical issues involved. Consultation will provide the opportunity to engage with the domestic abuse sector, survivors and victims, and local authorities to ensure that their interests are all considered, and that any changes to the law achieve the desired aim of improving protections for victims of domestic abuse.

The public consultation would also allow us to consider other solutions that have been put forward to this problem. For example, as the noble Baroness, Lady Deech, and my noble friend Lord Young of Cookham mentioned, the Scottish domestic abuse Bill seeks to introduce a new ground for eviction that would enable social landlords to remove the perpetrator of domestic abuse from the property and transfer it into the survivor's name. That has not yet been enacted by the Scottish Parliament, but if and when it is we will want to see how it works, albeit that I acknowledge the point correctly put by the noble Baroness, Lady Burt, about doing that swiftly.

I understand that noble Lords will be concerned about the extra time that this consultation will take, so I will say something about timing. We would seek to issue the consultation this summer, following Royal Assent to the Bill. We would expect to carry out a

standard 12-week consultation to allow for proper consideration of these complex issues, then consider the responses and publish a government response as soon as possible in the new year. Thereafter, we would seek to legislate, if appropriate, at the earliest available opportunity. I am happy to provide that answer.

I hope that provides sufficient reassurance to my noble friend Lord Randall of Uxbridge and the noble Baroness, Lady Deech, on how seriously we take these issues. We are committed to consult on both of them and to take forward the outcome of those consultations as soon as practicable thereafter. I hope that, having given those commitments, they will be content not to press their amendments.

3.15 pm

Lord Randall of Uxbridge (Con) [V]: My Lords, I thank those who spoke in support of my amendment, particularly my noble friend Lord Young of Cookham, the noble Baronesses, Lady Burt of Solihull and Lady Bennett of Manor Castle, and the noble Lord, Lord Kennedy of Southwark. In particular, I thank my noble friend the Minister for his careful and considered reply. I am satisfied that the Government have listened and will take some action. Therefore, I am delighted to say that I beg leave to withdraw my amendment.

Amendment 66B withdrawn.

The Deputy Speaker (Lord Lexden) (Con): My Lords, we now move to the group beginning with Amendment 66C. Anyone wishing to press this or anything else in the group to a Division must make that clear in debate.

Amendment 66C

Moved by ***Lord Wolfson of Tredegar***

66C: After Clause 72, insert the following new Clause—

"Medical evidence of domestic abuse

Prohibition on charging for the provision of medical evidence of domestic abuse

(1) No person may charge a fee or any other remuneration for the preparation or provision of relevant evidence relating to an assessment of an individual carried out by a relevant health professional in England or Wales under a qualifying medical services contract.

(2) No person may charge a fee or any other remuneration for the preparation or provision of relevant evidence relating to an individual by a relevant health professional in England or Wales if the services provided by the relevant health professional are wholly or mainly services provided under a qualifying medical services contract.

(3) In this section "relevant evidence", in relation to an individual, means—

(a) evidence that the individual is, or is at risk of being, a victim of domestic abuse which is intended to support an application by the individual for civil legal services, or

(b) any other evidence that the individual is, or is at risk of being, a victim of domestic abuse which is of a description specified in regulations made by the Secretary of State.

(4) In this section "relevant health professional" means—

(a) a medical practitioner licensed to practise by the General Medical Council;

(b) a health professional registered to practise in the United Kingdom by the Nursing and Midwifery Council;

(c) a paramedic registered to practise in the United Kingdom by the Health and Care Professions Council.

(5) In this section "qualifying medical services contract" means—

(a) in relation to England—

(i) a general medical services contract made under section 84(2) of the National Health Service Act 2006;

(ii) any contractual arrangements made under section 83(2) of that Act;

(iii) an agreement made under section 92 of that Act;

(b) in relation to Wales—

(i) a general medical services contract made under section 42(2) of the National Health Service (Wales) Act 2006;

(ii) any contractual arrangements made under section 41(2)(b) of that Act;

(iii) an agreement made under section 50 of that Act.

(6) The appropriate national authority may by regulations amend the definition of—

(a) "relevant health professional";

(b) "qualifying medical services contract".

(7) In this section—

"appropriate national authority" means—

(a) in relation to England, the Secretary of State;

(b) in relation to Wales, the Welsh Ministers;

"assessment" includes a consultation, whether in person or otherwise;

"civil legal services" has the meaning given by section 8 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

(8) Subsections (1) and (2) do not apply in relation to anything done by a relevant health professional before the coming into force of this section."

Member's explanatory statement

This amendment would prevent certain health care professionals who either assess a patient under an NHS contract, or provide services wholly or mainly under an NHS contract, from charging victims of domestic abuse for the provision of evidence of their injuries in order to support a claim for civil legal aid.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, when we debated the amendment tabled in Committee by the noble Lord, Lord Kennedy of Southwark, which intended to prohibit GPs from charging domestic abuse victims for legal aid evidence letters, I made clear my intention to try to reach a satisfactory conclusion on this matter. I was also clear that the Government wholeheartedly agree that vulnerable patients should not be charged for evidence to support them in accessing legal aid. That remains the Government's position.

In Committee, I gave an undertaking to give this matter detailed consideration before Report, while, I hope helpfully, pointing out some technical defects with the amendment tabled but ultimately withdrawn by the noble Lord. The current position is that GPs can provide services in addition to NHS contracted services. These are classified as private services for which GPs have discretion to charge the patient for their completion in lieu of their professional time. The provision of letters of evidence to enable access to legal aid is one such private service.

[Lord Wolfson of Tredegar]

A GP is one of many professionals to whom a vulnerable person can turn for a letter to provide evidence of domestic abuse for access to legal aid. It is up to the discretion of an individual GP practice as to how much any charge for private services should be and, indeed, whether a charge should be levied at all.

As part of the 2020-21 contract agreement, the British Medical Association recommended to all GPs that a charge should not be levied for letters providing this evidence. That was a welcome and important step forward, and a recognition by the BMA that vulnerable patients with limited means should not be expected to pay for such letters. We recognise and commend the vast majority of GPs who are following this guidance, but we recognise that this is a non-binding recommendation from the BMA, so we now move with this amendment to remedy this gap, having considered the matter carefully since Committee.

Amendment 66C achieves our aim. It will provide that no person may charge for the preparation or provision of evidence demonstrating that a person is, or is at risk of being, a victim of domestic abuse for the purpose of obtaining legal aid. The "relevant health professionals" listed in subsection (4) of the proposed new clause are those providing services pursuant to any of the general medical services, personal medical services, or alternative provider medical services contracts. A "relevant health professional" who has assessed the patient in the course of providing services under any of those three contracts will be prevented from charging for such a letter.

Importantly, the same amendment also prohibits charging for this letter through any vehicle, the health professional themselves or the practice, be it a company or a partnership. Nobody who seeks evidence from such health professionals demonstrating that they are a victim of domestic abuse, or are at risk thereof, for the purposes of obtaining access to legal aid, may be charged under the government amendment. With the agreement of the Welsh Government, this amendment will extend to England and Wales, subject to a legislative consent Motion which is being debated in the Senedd tomorrow.

In these respects, Amendment 66C will go further than Amendment 71 tabled by the noble Lord, Lord Kennedy. As I observed on a previous occasion, that amendment relies solely on the definition of a general medical services contract in Section 84 of the National Health Service Act 2006, therefore covering only one of those three types of GP contracts, and would not apply to almost 30% of practices. Obviously that was not his intention, but it is an important drafting point.

We have also taken the opportunity to future-proof this prohibition through the two regulation-making powers in proposed new subsections (3)(b) and (6). Proposed new subsection (3)(b) enables the Secretary of State to extend the scope of the prohibition beyond legal aid, should a health professional's evidence of domestic abuse ever be relevant in other contexts, while proposed new subsection (6) enables the Secretary of State, or the relevant Welsh Ministers, to alter the lists of professionals and contracts caught by the prohibition. Should a change in the delivery of health service necessitate a change in the scope, we can do that with the appropriate regulations.

The remaining government amendments are largely consequential on Amendment 66C. Amendment 89A amends Clause 73 to provide that the Secretary of State can issue guidance about the prohibition. Amendment 103A provides for commencement on the first common commencement date following Royal Assent. Government amendments 95A to 95C, 98A to 98C and 99A to 99C make consequential amendments to Clauses 74, 75 and 76 respectively.

I remember well that in Committee the noble Lord, Lord Kennedy of Southwark, read out an impressive list of occasions when he had raised this matter. He went so far as to list the names of my illustrious predecessors with whom he had engaged, and I know that they worked hard to resolve this matter. On that occasion, I said that I hoped to escape the horrid fate of being added to his list, and I hope that I have achieved that very modest ambition. However, delighted as I am to be the Minister standing today at the Dispatch Box, moving these amendments to bring this very long-running problem to a close—I hope—I am conscious that many other Ministers, present and previous, have worked on this matter, and without their efforts we would not have got to where we are today.

We have listened carefully to the points made by the noble Lord, Lord Kennedy, and other noble Lords, on this important matter. I am pleased that this Government have been able to table these amendments. I look forward to the contributions of other noble Lords, and I beg to move.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I am delighted with the amendments tabled by the Minister. I thank him very much; the amendments have my full support. I will at the appropriate time not move my amendments on the Marshalled List.

This campaign has been a long one. I will spend a few minutes setting out how it started, thanking those people who have got us to this day, and paying tribute to those whom I cannot mention. The campaign was started by a domestic abuse survivor in the Wythenshawe area of Manchester, on discovering that their local GP was charging victims of domestic abuse for letters that they needed when applying for legal aid. They thought that this was wrong and decided to change the law. I thank Katy—I am not allowed to give her surname—who first raised the issue with my friend Tom Watson, when he visited Safespots Wythenshawe. He raised the matter in Parliament.

I thank Mike Kane, the local MP who supported the campaign for many years; Laura Hitchen, the local solicitor in Manchester who highlighted how widespread the problem was; Councillor Sarah Judge, who works at Safespots; all the Safespots women who are victims of abuse and who stood up and decided to change the law; Manchester City Council and the other local authorities that gave their support to the campaign; all the police and crime commissioners who gave their support, including my noble friend Lord Bach; Sue Macmillan, my good friend for many years, who got the Mumsnet campaigners on the case; Charles Hymas, the home affairs editor of the

Daily Telegraph, for shining a light on the issue at the right time; my good friends Stephanie Peacock MP, for kindly raising the issue in the other place, and Stella Creasy MP, for her valuable advice and support; the noble Baroness, Lady Bertin, who supported me in Committee, along with the noble Baronesses, Lady Bull and Lady Burt of Solihull, the right reverend Prelate the Bishop of London and the noble Baroness, Lady Newlove, who has always been supportive and who encouraged me to carry on; and noble Lords of all parties and on the Cross Benches who have supported me in my numerous questions to a variety of Ministers, whom I thank for their responses to all the amendments to government Bills that I have moved over the years. I have involved officials from at least four government departments.

I also thank Victoria Atkins MP, a Home Office Minister who listened and was a great help in getting out of this position. I am also grateful to our Minister—the noble Lord, Lord Wolfson of Tredegar—who on 8 February, when I raised the issue in the House, listened, bringing these amendments back to the House today. My final thanks go to the noble Baroness, Lady Williams of Trafford. I have tremendous respect for her, and she is also my friend. She listened and understood the points being made and played a key role in us getting to where we are today. I am tremendously grateful to her.

I have always said that this is a good Bill, and it is undoubtedly a better Bill because of the work that we have done in this House. With these amendments being agreed today, we are ending the postcode lottery in which a victim of domestic abuse could be charged by their GP for a letter that they need to gain access to legal aid. With these amendments, that position ends. This is wonderful. I am delighted to have played a small part in achieving this.

Lord Naseby (Con) [V]: My Lords, I thank my dear friend the noble Lord, Lord Kennedy, who has been a wonderful campaigner on this issue. I went back in history a little way because I have the privilege of being the husband of a retired GP. Under the old contract from the pre-Blair period, things were not quite as confusing as they subsequently became. We all know that any GP, when faced with this situation, would do a thorough medical examination. This has never been in doubt. In the period after the Major Government this became less clear; I do not know why, but it did. I thank all the people whom the noble Lord mentioned, and Her Majesty's Government. It is not easy, particularly at times like this, when everyone is focused on Covid, to make progress on a difficult area. Obviously the Ministers have worked very hard on it, and I pay tribute to the hard work that they have put in.

The Lord Bishop of Carlisle [V]: My Lords, I too address Amendment 71. As the lead bishop for health and social care, and with the support of my friend the right reverend Prelate the Bishop of London—as we have heard, she supported this amendment in Committee—I also thank the Government for listening and for tabling amendments that prohibit charging for medical evidence under these circumstances. I also pay tribute to the noble Lord, Lord Kennedy, for his hard work in raising this matter. I regard the Government's proposal as an excellent addition to the Bill, which will greatly assist a group of highly vulnerable people in securing the support that they need, and I am glad of this opportunity to express our gratitude to all those involved in bringing this about.

3.30 pm

Lord Morris of Aberavon (Lab) [V]: My Lords, I shall intervene briefly on Amendments 66C and 71, which I support. I have been involved as a beneficiary all my professional life with legal aid. Its roots go back to the Labour Governments of 1945 and 1951. When I began practising at the Bar in 1959, it was just about being given new life, and what a blessing it has been to people with limited or no means.

My noble friend Lord Kennedy has put down Amendment 71 which, together with the Government's amendment, is a clear statement that no appropriate health professional may impose a fee for the purposes of obtaining legal aid by an applicant. Health professionals are paid in accordance with the terms of their contracts. My understanding is that on occasion, such as for medical certificates for insurance and travel purposes, they are entitled to charge extra fees. I am grateful for the Minister's very careful explanation of what they can do.

There is obviously a loophole that needs to be filled. This is confirmed by the very fact of the result of the Government's work, on which I congratulate them, in moving Amendment 66C. The need to fill in the loophole is confirmed. The Government seem to have covered all contingencies, and it obviously overtakes the Opposition's amendment. I also congratulate my noble friend Lord Kennedy on the hard work he and others have done; the result is what we see before us today. It confirms the value of this House as a reforming, confirming and improving Chamber. With those few words, I support the Government's amendment.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the noble and learned Baroness, Lady Butler-Sloss, who is next on the list, has withdrawn from this debate, so I call the noble Baroness, Lady Burt of Solihull.

Baroness Burt of Solihull (LD): My Lords, I add my congratulations to the noble Lord, Lord Kennedy, on resolving the injustice of NHS providers charging for evidence of domestic abuse. It is an object lesson in persistence. I hope that the noble and learned Baroness, Lady Butler-Sloss, who I was hoping to follow, will meet the same eventual success with her plans on forced marriage. I am also grateful to the Minister for his amendments to ensure that this is properly and legally installed in law.

In my view, it is a scandal that it ever had to come to this. What hard-hearted group of medical practitioners ever made the decision to charge money for evidence that a woman has been subjected to violence as a qualifying condition for legal aid? I suppose that is what happens when you try to marketise the NHS.

The Minister spoke about the role played by the BMA, but according to the BMA this amendment should never have been necessary. It says:

[Baroness Burt of Solihull]

"We believe that legal aid agencies should trust the word of victims without needing to consult with a medical professional, who themselves"

will rely on what the victim tells them and

"may not be best placed to confirm whether domestic abuse has taken place."

It recommends that the MoJ should remove altogether the unfair requirement for medical forms in the domestic abuse legal process. It seems to me that this requirement is just placing one more obstacle in front of the victim, perhaps to test to destruction her determination to get justice. Will the Minister say why legal aid agencies are requiring these medical certificates in the first place? Should we not be legislating to remove this requirement, full stop?

Lord Wolfson of Tredegar (Con): My Lords, I begin by taking up the comment of the noble and learned Lord, Lord Morris of Aberavon, who said that this is a loophole that needed to be filled. I respectfully agree, and that is why the Government have tabled the amendments that have the effect that I set out earlier.

It was gratifying to hear the congratulations to the noble Lord, Lord Kennedy of Southwark, from my noble friend Lord Naseby, the right reverend Prelate the Bishop of Carlisle and the noble Baroness, Lady Burt of Solihull. I shall not rise to the challenge in her phrase about marketising the NHS, but I should respond briefly to her point about why any evidence is needed at all. The short answer is that there is limited legal aid spend. We must target it at those who need it most, and we believe that the evidence requirements ensure that the legal aid scheme strikes the best balance between ensuring that victims of domestic abuse can evidence their abuse and access legal aid and ensuring that the risk of fraudulent or unmeritorious claims is as low as possible. To that end, we have significantly extended the accepted forms of evidence. We have removed all time limits and the government amendments seek a clear resolution of the issue of victims being charged to obtain that evidence.

Other than that, it is fair to say that the debate we have just had was something of a tribute band to the noble Lord, Lord Kennedy of Southwark, but on this occasion, tribute is entirely well merited. He has been indefatigable and resolute, and he was very generous, although I associate myself with it, in mentioning my noble friend Lady Williams of Trafford, who has also worked very hard to resolve this matter.

I shall not take up any more of the time of your Lordships' House. For the reasons I have set out, the Government believe that these amendments will sort out this long-running problem, and I therefore commend them to the House.

Amendment 66C agreed.

The Deputy Speaker (Lord Lexden) (Con): My Lords, we now come to Amendment 67. Anyone wishing to press this amendment to a Division must make that clear in debate.

Amendment 67

Moved by ***Baroness Meacher***

67: After Clause 72, insert the following new Clause—

"Victims of domestic abuse: data-sharing for immigration purposes

(1) The Secretary of State must make arrangements to ensure that personal data of a victim of domestic abuse in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to domestic abuse is not used for any immigration control purpose.

(2) The Secretary of State must make arrangements to ensure that the personal data of a witness to domestic abuse in the United Kingdom that is processed for the purpose of that person giving information or evidence to assist the investigation or prosecution of that abuse, or to assist the victim of that abuse in any legal proceedings, is not used for any immigration control purpose.

(3) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 shall not apply to the personal data to which subsection (1) or (2) applies.

(4) For the purposes of this section, the Secretary of State must issue guidance to—

(a) persons from whom support or assistance may be requested or received by a victim of domestic abuse in the United Kingdom;

(b) persons exercising any function of the Secretary of State in relation to immigration, asylum or nationality; and

(c) persons exercising any function conferred by or by virtue of the Immigration Acts on an immigration officer.

(5) For the purposes of this section—

"immigration control purpose" means any purpose of the functions to which subsection (4)(b) and (c) refers;

"support or assistance" includes the provision of accommodation, banking services, education, employment, financial or social assistance, healthcare and policing services; and any function of a court or prosecuting authority;

"victim" includes any dependent of a person, at whom the domestic abuse is directed, where that dependent is affected by that abuse."

Member's explanatory statement

This new Clause would require the Secretary of State to make arrangements to ensure that the personal data of migrant survivors of domestic abuse that is given or used for the purpose of their seeking or receiving support and assistance is not used for immigration control purposes.

Baroness Meacher (CB) [V]: My Lords, I thank the noble Baronesses, Lady Wilcox and Lady Hamwee, and the right reverend Prelate the Bishop of London who added their names to this amendment. It requires the Secretary of State to ensure that the personal details of a victim of domestic abuse or of a witness to domestic abuse which is processed so that the victim can seek support is not used for immigration control purposes. The amendment also requires the Secretary of State to issue guidance to ensure that victims, witnesses and relevant officials are made aware of this protection.

At the outset I thank the commissioner for putting at the top of her two key priorities for Report extending support for migrant victims of domestic abuse. The commissioner supports amendments, which certainly includes this one, to ensure equal access to support regardless of immigration status. She is concerned that without these additional provisions in the Bill, the Government will be unable to ratify the Istanbul convention. I hope that the Minister will comment on the significance of this amendment for the Istanbul convention.

I thank the noble Lord, Lord Parkinson, for the meeting last week with those of us who have put our names to this amendment. The Minister made it clear that the Government are waiting for the results of their review of the Home Office treatment of the victims of domestic abuse and are therefore resistant to accepting this amendment.

The Government and I seem to be looking at two different sides of the mirror. The Government want to find examples of good practice where a victim's immigration status is resolved and their life can move forward positively. The plan is then to publicise these happy stories. That is fine—in fact, it is splendid—but our concern is for the 50% of domestic abuse victims who never report the crimes committed against them for fear of detention and/or deportation if on leaving a marriage or relationship their immigration status is brought into question. These crimes cannot therefore be followed up by the police, which is surely a matter of great concern for the Home Office.

Is the Home Office more concerned about having access to information about vulnerable victims of domestic abuse in order to pursue issues of immigration status than it is about the inability of the police to pursue criminal perpetrators because victims are too afraid to report their crimes? I understand the Home Office's dilemma but the moral imperative here seems overwhelming. For these extremely vulnerable women to face continued abuse and criminal acts against them to help the Home Office get information about other people is surely, quite simply, not right.

The Minister seemed to make it clear that the government review will not even be looking at the consequences for victims of the current free flow of information from victims to the police and then on to immigration officers at the Home Office. In fact, the Government have all the information we, and they, need to know that a firewall is needed to protect victims. We know that only with the firewall proposed by this amendment will 50% of these vulnerable women with insecure immigration status seek the assistance they need. As is surely important for the Government, this amendment would ensure that the perpetrators of domestic abuse against these women could be dealt with in the normal way by the criminal justice system. The review will not change these facts or throw any further light on the issue. Does the Minister accept that? That is how it is. During our meeting, the Minister was unable to respond to these arguments. This is not at all a criticism of the Minister—I believe there is no morally acceptable counterargument to make.

Before I conclude, I want to clear up a few misunderstandings. Some services may need to share data; for example, to establish an individual's immigration status to determine whether or not they have the right to access the NHS. However, a victim's data should never be used to trigger immigration enforcement proceedings. That is a completely different matter.

This amendment needs to be included on the face of the Bill. At present, the National Police Chiefs' Council guidance on data-sharing is inconsistently adopted by police forces up and down the country. The police need absolute clarity on this issue and this amendment would provide it. We do not need to wait for the review. We know that we need a clear statutory duty to ensure safe reporting by domestic abuse victims. If a survivor of abuse with unsettled immigration status comes to the notice of the police, the police should refer them to a specialist who deals with these issues. To catapult these women into the immigration enforcement system without legal advice or support, just at the point when they are at their most vulnerable and have taken the first step to escape their abuse, is unnecessary, counterproductive and cruel.

Finally, we know that almost all the vulnerable women who are the subject of this amendment report that threats of deportation have been used by their perpetrators. The reality is that the Home Office is unwittingly supporting perpetrators in their criminal activities. Is the Minister content with that situation? The UK's treatment of these women is not consistent with our claim to be a civilised society; that is certainly my view. I hope that Ministers will reflect carefully on this issue. If the Minister cannot assure the House that the Government will address this issue within the Bill, I will want to test the opinion of the House. I beg to move.

3.45 pm

Baroness Crawley (Lab) [V]: My Lords, I will be supporting the noble Baronesses, Lady Meacher and Lady Hamwee, and my noble friend Lady Wilcox should they wish to press this amendment to a vote today. We all know that migrant women with no recourse to public funds face so many additional barriers to safety from violence. Abusers commonly use women's fear of immigration enforcement and separation from their children to control them and stop them seeking the help that they need. Thanks must go to Elizabeth Jiménez-Yáñez, co-ordinator of Step Up Migrant Women, Janaya Walker of Southall Black Sisters, and all those organisations which work with migrant women and have kindly shared many heart-breaking testimonies with us.

We all, including the Minister, wish to ensure that safe pathways are established for migrant women to report abuse. To be honest, I am disappointed that our arguments for the Bill to play its part in achieving that have so far fallen on deaf ears. The Government are saying that the 2020 National Police Chiefs' Council guidance simply needs better implementation. We are saying, however, that the super-complaint investigation, which several of us referred to in Committee, found that the guidance on data-sharing has been only inconsistently adopted by police forces in England and Wales; is discretionary, as the noble Baroness, Lady Meacher, has said; and is therefore not fit for purpose.

If the guidance is not working adequately and there is no legal duty for the police to tell immigration enforcement if they know someone is in the country illegally, why are the Government not using this Bill to remedy the situation? Why also are the Government waiting until 21 June to respond to the super-complaint investigation by Liberty and Southall Black Sisters? Obviously, this will be too late for this Bill—and too late for so many women who are living in fear not only of abuse but of detection and of reporting that abuse.

Why are the Government also insisting that the police need to share the victim's data to safeguard the victim? Surely, it is the role of the police to safeguard

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and investigate, and to refer the victim of abuse to specialist services, as the noble Baroness, Lady Meacher, has said—and it is the role of immigration to enforce immigration policy and rules. These roles should not be conflated at the expense of the victim. The Stand Up Migrant Women campaign also insists that there is a distinct lack of data on any positive effects resulting from such information-sharing. I ask the Minister to think again about the importance of this amendment to so many migrant women who are trapped in the sinking sands of irregular identity and regular abuse.

Baroness Hamwee (LD) [V]: My Lords, this amendment is about victims of domestic abuse who have—or, crucially, believe that they have—insecure status. Believing or being told that you are insecure is part of control, as the noble Baroness, Lady Crawley, just said, and trust or lack of trust—indeed, fear of an authority figure—is a significant barrier to seeking help. In Committee, I quoted Her Majesty's Chief Inspector of Constabulary and Fire & Rescue Services, who said:

"Victims should have every confidence in approaching the police for protection",

and should

"never be in a position where they fear the actions of the police could unintentionally but severely intensify their vulnerability".

That was about organised crime but it applies precisely also to this situation.

The Government have, or will have, their pilot on the needs of migrant women. They are not a homogeneous group: there are different groups and communities, and so on, but the subjects of this amendment are characterised by the common factor of insecure status. The issue is about process. Without a firewall, quite a lot of women—and some men—will not even get to square one of "victims first and foremost".

At the previous stage, the Minister spoke of the benefits to sharing information. I do not dispute that there are certain benefits in some situations but this is a matter for the individuals' consent. I am very concerned that in Committee, in referring to victims' needs being "put first", she talked about there being a "clear position" on the police exchanging information about victims of immigration enforcement. There should indeed be a clear position, and the amendment provides it. She also said that the Government are

"equally … bound to maintain an effective immigration system",

that

"individuals … should be subject to our laws"

and that if their status is irregular, they

"should be supported to come forward … and, where possible, to regularise their stay".—[*Official Report*, 1/2/21; col. 1912.]

We could have a debate about safeguarding from exploitation, which I acknowledge that she mentioned, too, but that is not the issue here.

This sounds too much like "status first" and is not consistent with "victims first", which is what we have heard throughout the debate, and rightly so. I support the amendment. We on our Benches will support it not only because of the Istanbul convention, as mentioned by the noble Baroness, Lady Meacher, but because of its intrinsic importance.

Baroness Butler-Sloss (CB) [V]: My Lords, it is extremely unfair that someone who is a victim of domestic abuse and has sought help is twice victimised. It shows an astonishingly unfeeling and callous approach to these victims, entirely at odds with the understanding and caring approach of the Government, as shown in this otherwise excellent Bill. I wonder how they can allow the data of domestic abuse victims to be used in this way. Does it mean that immigration and the deportation of victims trumps the importance of this legislation, and that certain groups of victims are not to qualify for support?

The groups of victims include foreign wives of unregistered marriages, which are not seen in English law as lawful. This is an important amendment, and failure by the Home Office to recognise its significance sends a sad message: that the Government are not willing to treat all victims of domestic abuse equally.

The Lord Bishop of London [V]: My Lords, I thank the noble Baroness, Lady Meacher, for her work on this amendment. It is also a pleasure to follow the noble and learned Baroness, Lady Butler-Sloss.

Amendment 67, to which I give my support, speaks to an underlying issue with several amendments that concern migrant women: namely, the balance between the Home Office's commitment to immigration enforcement and the support of victims, which is too often weighted too heavily towards the former. From my own work exploring how varying circumstances, such as migration, affect one's health outcomes, I hear far too often of victims of crime too nervous to come forward to the police for fear that, rather than receiving the help and support that they need, they will instead find themselves indefinitely detained, split from children and families and deported. The result is that they simply do not come forward, for fear is weaponised by abusers to prevent their victims escaping. This is all too common.

Confidence in the authorities to protect migrant survivors is low, and the lack of a clear firewall to prevent data being used for enforcement is a significant contributing factor. By producing such a firewall, Amendment 67 would go a long way to build confidence and encourage survivors to come forward. I was grateful for the time given to us by the noble Lord, Lord Parkinson, and officials who sought to explain how work was being undertaken to review what actually happens. Unfortunately, the results of this will come too late for the Bill—and even when they do, migrant women will not have access to such a review. All they will know is that they are at risk of their information being passed to the Home Office.

This amendment is one of the structural changes required to reduce violence against migrant women. We have heard the arguments from the Government, here and in the other place, against the amendment. I must admit to being disappointed by the lack of movement or engagement with some of the points which have been repeatedly raised by the Latin American Women's Rights Service. We have heard from the Government that such data-sharing is necessary for safeguarding; it is not clear how this can be the case. The recent findings on police data-sharing for immigration purposes established that the investigation has found

no evidence that sharing personal victim data between the police and the Home Office supports the safeguarding of victims of domestic abuse.

While some services may need to share data to ascertain an individual's immigration status and the right to access the service, there is absolutely no reason that the police should need to share victims' immigration status with the Home Office. This does nothing to enhance safeguarding and everything to undermine survivors' confidence that they will be treated by police as victims of crime, rather than as perpetrators. This issue is of enormous importance. We must find a way of ensuring that survivors have confidence that they can come forward without fear. This is demonstrably not true at present, and a clear solution is present in this amendment. I therefore hope that the Government may think again on this amendment, which I wholeheartedly support.

Baroness Jones of Moulsecoomb (GP): My Lords, I support Amendment 67 and if it comes to a vote, the Green group will vote for it. It was a particularly nasty part of the Data Protection Act 2018, which contained provisions that allow the near-unlimited sharing of personal data for the purpose of immigration enforcement. A small group of us tried to fight that at the time, predicting problems as we see today. It was part of a trend by this Government towards turning every single person in this country into a border enforcement agent.

People are currently at great risk when they engage with any kind of public service that information will be passed on to the Government and used to deport them. This really should not be the case. When a survivor of domestic abuse reaches out for help, they should be treated as a human being and given the help that they need unconditionally. There should be absolutely no doubt in their mind that they will be helped and not harmed by accessing support.

Lord Paddick (LD) [V]: My Lords, the noble Baroness, Lady Meacher, asked the Minister whether she could say what significance this amendment has for the ratification of the Istanbul convention. Perhaps I can assist the House. As we will hear in the next group, the Istanbul convention requires signatories, of which the UK is one, to take the necessary legislative steps and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and private spheres. It goes on to say that the implementation of the provisions of the convention shall be secured without discrimination on any ground, specifically mentioning migrant or refugee status, among other things, in the convention.

If a migrant or refugee is deterred from seeking protection from violence because they believe that their details will be passed to immigration officials for immigration control purposes, the UK is in my view in breach of its obligations under the Istanbul convention, as well as it being morally reprehensible and, as the noble and learned Baroness, Lady Butler-Sloss, just said, callous and unfeeling.

We know for a fact that the police pass the details of victims of crime, including rape victims, to immigration officials for immigration control purposes, and this needs to stop. Amendment 67 seeks to stop it, at least in relation to victims of domestic abuse, and we strongly support it. If the noble Baroness, Lady Meacher, divides the House, we will support her.

4 pm

Baroness Wilcox of Newport (Lab) [V]: My Lords, I make it clear at the outset that, if the noble Baroness, Lady Meacher, divides the House, the Opposition Benches will strongly support her amendment. The amendment calls for the Secretary of State to ensure that the personal data of a victim of domestic abuse in the UK is processed only

"for the purpose of that person requesting or receiving support or assistance related to domestic abuse"

and not for immigration control.

Government policy is clear: victims of crime should be treated without discrimination. Therefore, the separation of immigration enforcement and protection of domestic abuse victims who are migrant women must be delineated. A failure to do this puts migrant women at risk of the double jeopardy of both danger from their abusers and fear of deportation.

The Istanbul convention, the landmark international treaty on violence against women and girls which the Government have signed and are committed to ratifying, requires in Articles 4 and 59 that victims are protected regardless of their immigration status. Still, FOI requests reveal that 60% of police forces in England and Wales share victims' details with the Home Office—prioritising immigration control over victims' safety and access to justice.

While some services may need to share data to ascertain an individual's immigration status and right to access the service—for example, some NHS services—there is no legal requirement for any data sharing with the Home Office related to domestic abuse victims. Without any national policy guidance on this practice, the police approach to safeguarding migrant victims of crime will remain inconsistent.

The blind spots contained in this Bill are resolved by this amendment. I fear that this blind spot enables offenders and abusers to use police involvement as a threat to their victims, rather than the source of protection that it should be. Various countries around the world have demonstrated that firewalls can be and are being implemented in different ways to create a separation between public services and immigration enforcement. It is entirely possible that the training and cross-sector relationships we are calling for through this Bill can establish safe reporting pathways that include access to specialist support services and legal advice to address a victim's immigration status, as necessary.

Another consequence of putting immigration control above the safety of victims is that perpetrators can commit these crimes with impunity—a risk not only for survivors but for wider communities. Better trust in the police to protect victims of abuse and investigate crime for migrant women will improve responses for all survivors and the public.

I challenge the Government to establish safe reporting pathways by incorporating a clear statutory obligation preventing public authorities and other support services sharing data with the Home Office for the purpose of

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immigration control, to ensure that safe reporting is available to all women, regardless of their immigration status.

Lord Parkinson of Whitley Bay (Con): I thank the noble Baroness, Lady Meacher, and the other signatories of this amendment for setting out their case for a firewall so that the personal data of domestic abuse victims which are given or used for seeking or receiving support are not used for immigration control purposes. I was glad to have the opportunity to discuss the issue with the noble Baroness and the right reverend Prelate the Bishop of London, the noble Baronesses, Lady Hamwee and Lady Wilcox of Newport, and others after Committee.

While I appreciate the case they are making, the Government remain of the view that what is provided for in Amendment 67 would hinder the safeguarding of victims of domestic abuse and that it is premature given the process set out by the policing inspectorate following its report on the recent super-complaint about this.

I fully understand the sentiment behind the amendment, which is to ensure that migrant victims of domestic abuse come forward to report that abuse to the police and are not deterred by concerns that immigration enforcement action might be taken against them. As my noble friend Lady Williams of Trafford made clear in Committee, our overriding priority is to protect the public and all victims of crime, regardless of their immigration status. Guidance issued by the National Police Chiefs' Council, which was updated last year, makes it clear that victims of domestic abuse should be treated as victims first and foremost.

The National Police Chiefs' Council remains clear in its view that information sharing between the police and Immigration Enforcement is in the interest of the victim. Sharing information can help prevent perpetrators of abuse coercing and controlling their victims because of their insecure or unknown immigration status. In such circumstances, bringing the victim into the immigration system can only benefit them. This amendment would prevent that and could cut against other assistance that can be provided to domestic abuse survivors.

It might assist the House if I give one example of the possible unintended effects of this amendment. We will shortly be debating Amendment 70 in the name of the right reverend Prelate the Bishop of Gloucester. That amendment seeks to expand the destitute domestic violence concession so that any migrant victim of domestic abuse can apply for temporary leave to remain while making an application for indefinite leave to remain. I will leave the debate about the merits of Amendment 70 to my noble friend and the debate which will follow. For the purposes of this debate, I submit that an application under the destitute domestic violence concession is, in the words of Amendment 67, a request for

"support or assistance related to domestic abuse".

Under this amendment, the Home Office could not lawfully process any application under the DDVC because the applicant's personal data could be used for an immigration control purpose. I fully accept that that is not what the sponsors of this amendment have in mind but, were it to be added to the Bill, I fear that would be one effect.

More broadly, I hope that noble Lords will understand that the Government are duty-bound to maintain an effective immigration system, not least because of their obligations under the Immigration and Asylum Act 1999, which permits the Home Office to share and receive information for the purposes of crime prevention and detection and effective immigration control. As such, it was particularly disappointing to hear the noble Baroness, Lady Wilcox of Newport, say that the Labour Benches would vote in favour of this amendment, were it put to a Division. We have an obligation to protect our public services and to safeguard the most vulnerable people from exploitation because of their immigration status.

The public rightly expect that people in this country should be subject to our laws, and it is right that, when people with an irregular immigration status are identified, they should be supported to come in line with the law and, where possible, to regularise their stay. Immigration enforcement staff routinely help migrant victims of domestic abuse and other crimes by directing them to legal advice to help regularise their stay.

Articles 6 and 9 of the general data protection regulation and the Data Protection Act 2018 provide the statutory framework within which this information is exchanged. I remind noble Lords that the Government are committed to reviewing the current data-sharing arrangements in relation to victims of domestic abuse.

It was not very long ago that, in the Policing and Crime Act 2017, your Lordships' House approved legislation establishing a system of police super-complaints. The first super-complaint to be considered under this new system was on this very issue. The outcome was published by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services in December 2020. It made eight recommendations in total: five for the National Police Chiefs' Council, two for the Home Office and one jointly shared between them. HMICFRS said that the Government should respond within six months—that is, by June—and we are committed to doing just that. However, having legislated for the super-complaint process, we should not now undermine it by not allowing it to run its proper course.

It is only right that we take account of the recommendations in the report in proper detail. In response to the report, we have committed to reviewing the current arrangements, and, as I have said, we will publish the outcome of the review by June. The right reverend Prelate the Bishop of London lamented the fact that this would be too late for this Bill, but I reassure her that it is highly probably that the outcome of the review can be implemented through further updates to the National Police Chiefs' Council guidance or other administrative means—so action can be taken swiftly.

We understand the concerns that have been raised about migrant victims who do not feel safe in reporting their abusers to the authorities for fear of enforcement action being taken. The noble Baroness, Lady Meacher, has proposed undertaking further research into the experiences of this cohort of victims, which we are

committed to doing. We will engage with domestic abuse organisations to understand those concerns and assess what more we can do to allay those fears. We welcome the input of all noble Lords as we conduct this research.

In conclusion, while we understand the concerns that lie behind it, we respectfully believe that this is the wrong amendment and at the wrong time. If adopted, it would prevent victims of abuse from obtaining the support that they need, whether under the DDVC or other routes, and it prejudges the outcome of the super-complaint process, which was endorsed by your Lordships' House just four years ago. I would be glad to undertake to keep the noble Baroness, Lady Meacher, and others informed about the progress of the review and to discuss its conclusions with them. On that basis, I hope that they might yet be willing to withdraw their amendment today.

Baroness Meacher (CB) [V]: My Lords, I thank most of all the many noble Lords who have contributed so powerfully in support of Amendment 67. I also thank the Minister for his response, but I do not accept at all his view that it would reduce the support or protection for victims of domestic abuse. It very clearly talks about the information process

"for the purpose of that person requesting or receiving support or assistance".

Obviously, that information being passed from the police to the immigration officials would be unacceptable under this amendment. On the other hand, if the victim were to go to the immigration officials with a representative and with their information, saying, "I want you to sort out my immigration status", the immigration officials could of course proceed absolutely without any problem. As such, this is a bit of dancing on a pin, if I may put it that way. Basically, I do not accept that at all.

The Minister referred to working to allay the fears of victims of domestic abuse. This is not about allaying fears; it is about removing a very real risk for these very vulnerable victims of domestic abuse. As such, simply trying to allay fears really does not deal with the problem at all.

The Minister suggested keeping us informed; certainly, that would be helpful, and I hope that Ministers would do that. However, in view of the very disappointing response of the Minister, I want to test the opinion of the House.

4.13 pm

Division conducted remotely on Amendment 67

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Amendment 67 agreed.

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4.26 pm

Amendments 68 and 69 not moved.

The Deputy Speaker (Lord Haskel) (Lab): We now come to the group beginning with Amendment 70. Anyone wishing to press this or any other amendment in the group to a Division must make that clear in the debate.

Amendment 70

Moved by ***The Lord Bishop of Gloucester***

70: After Clause 72, insert the following new Clause—

"Victims of domestic abuse: leave to remain and the destitution domestic violence concession (DDVC)

(1) The Secretary of State must, within three months of this Act being passed, lay before Parliament a statement of changes in rules made under section 3(2) of the Immigration Act 1971 ("the immigration rules") to make provision for any person subject to immigration control who is a victim of domestic abuse in the United Kingdom to have a route to apply for leave to remain.

(2) The statement laid under subsection (1) must—

(a) set out rules for applying for indefinite leave to remain by any person subject to immigration control who is a victim of domestic abuse in the United Kingdom; and

(b) provide for those rules to be commenced no later than one month after the laying of the statement.

(3) The Secretary of State must make provision for granting limited leave to remain for a period of no less than six months to any person eligible to make an application under the immigration rules for the purposes of subsection (2); such leave must include no condition under section 3(1)(c)(i), (ia), (ii) or (v) of the Immigration Act 1971.

(4) The Secretary of State must make provision for extending limited leave to remain granted in accordance with subsection (3) to ensure that leave continues throughout the period during which an application made under the immigration rules for the purposes of subsection (2) remains pending.

(5) Where subsection (6) applies, notwithstanding any statutory or other provision, no services shall be withheld from a victim of domestic abuse solely by reason of that person not having leave to remain or having leave to remain subject to a condition under section 3(1)(c) of the Immigration Act 1971.

(6) This subsection applies where a provider of services is satisfied that the victim of domestic abuse is eligible to make an application to which subsection (3) refers.

(7) The Secretary of State must, for the purposes of subsection (5), issue guidance to providers of services about the assessment of eligibility to make an application to which subsection (3) refers.

(8) In this section—

(a) an application is pending during the period—

(i) beginning when it is made,

(ii) ending when it is finally decided, withdrawn or abandoned;

(b) an application is not finally decided while an application for review or appeal could be made within the period permitted for either or while any such review or appeal remains pending (meaning that review or appeal has not been finally decided, withdrawn or abandoned);

"person subject to immigration control" means a person in the United Kingdom who does not have the right of abode;

"provider of services" includes both public and private bodies;

"services" includes accommodation, education, employment, financial assistance, healthcare and any service provided exclusively or particularly to survivors of domestic abuse."

Member's explanatory statement

This would provide migrant victims of abuse with temporary leave to remain and access to public funds, for a period of no less than six months, so they can access support services while they flee abuse and apply to resolve their immigration status.

The Lord Bishop of Gloucester [V]: My Lords, I should like at the outset to acknowledge the assistance that I have received from Southall Black Sisters in preparing this amendment, and also thank the Minister for her time and compassion in discussing this with me. Amendment 70 is tabled in my name with the support of the noble Lord, Lord Rosser, and the noble Baronesses, Lady Goudie and Lady Hamwee, and I am grateful to every one of them.

I know that the protection of all victims of domestic abuse is a priority of noble Lords across the House, and I am grateful for the support shown for this amendment, which aims to provide migrant victims of abuse with temporary leave to remain and access to public funds for a period of no less than six months, so that they can access support services while they flee abuse and apply to resolve their immigration status. The mechanism for doing so is straightforward: extend the eligibility criteria of the existing domestic violence—DV—rule, which is a proven route for a limited group of survivors, including those on certain spousal and partner visas.

The Government raised concerns over the interpretation of the amendment, so we have made a couple of minor changes to proposed new subsections (1) and (2) to clarify the purpose of this amendment. There is also an updated explanatory note. I hope that what is now clear from the minor changes to the wording is that we are asking for temporary leave to remain and access to public funds while these extremely vulnerable people escape their abusers and regularise their immigration status. This is not about guaranteeing indefinite leave to remain to all migrant victims of abuse.

In Committee, I highlighted the need for such an arrangement and will not go over similar ground here or repeat the stories that I shared then. In response to the Government's counter-arguments, received in Committee and in discussion, I make three points this afternoon.

First, I shall speak about legitimate expectation of settlement. When the DV rule was introduced, the stated purpose behind the measure was to enable abused migrant women who would otherwise remain trapped to leave an abusive relationship. There was no suggestion that the DDV concession, as it was then named, was being introduced primarily because of a legitimate expectation by spouses to remain in the UK. I would argue that the law should provide protection for people on all visa types when there is evidence of domestic abuse, since many have insecure status through no fault of their own. We know that domestic violence often dramatically changes women's circumstances and expectations, and the Immigration Rules should reflect this. I say "women" not to exclude men but because the experience and data has come from those working with women.

4.30 pm

The number of additional applications likely to be made each year if eligibility for the DV rule and the DDVC was extended is estimated to be in the low thousands, with an increase of possibly only around 2,000 annually, but the impact would be life-saving and life-changing. The DV rule and the DDVC already work well for those able to access them. Extending eligibility to women—it is primarily women—on other types of visas is a straightforward solution for what is often a complex and challenging situation for many migrant survivors of abuse. It will also remove the power of abusers to weaponise someone's immigration status to exert absolute control and will allow people to hold their abuser to account by being able to report them.

Secondly, the Government are concerned that the expansion of eligibility for the DV rule and DDVC would, and here I quote the noble Baroness, Lady Williams,

"introduce a route to settlement that might lead to more exploitation of our immigration system—or indeed of vulnerable migrants."—[*Official Report*, 8/2/21; col. 99.]

This claim has no basis in evidence. The DV rule and DDVC have operated since 2002 and 2012 respectively, but there is no evidence whatever that the routes have led to abuse of the immigration system. The reason is that robust criteria and assessment mechanisms are already in place to guard against false claims and exploitation of the immigration system. I therefore say that the claim is based on fear, not fact, and that is not a basis on which to make, or avoid making, good decisions.

In 2018, 1,210 DDVCs were granted, out of which only 575 victims were subsequently granted leave to remain, demonstrating that there are established criteria that must be met for someone to be granted leave to remain. These criteria and the assessment procedure effectively prevent exploitation of the immigration system. It is simply not the case that those who make a claim of domestic violence will be able to easily exploit the immigration system, since the assessment procedure to obtain settlement under the DV rule is rigorous.

Not only is that concern lacking in evidence, it is lacking in logic. If, for example, an abuser manipulated a woman to regularise her status under the DV rule for the purpose of exploiting the immigration system, the abuser would be aiding a woman to report abuse that could lead to criminal proceedings against him, the abuser. Furthermore, it would lead that woman to access a pathway to support and protection that would enable her to get away from the control of the abuser. I would welcome some further explanation from the Government on this point because to me it simply does not stack up.

Thirdly, the pilot scheme, created by the Government to seek more evidence of the numbers of victims involved, is inadequate for a number of reasons. The pilot fails to appreciate the urgency and seriousness of the risk of abuse and destitution that abused migrants—mainly women—on non-spousal visas currently face. Even as an interim measure, the £1.4 million allocated to the pilot fund is nowhere near sufficient to address this urgent and mounting crisis. At a stretch, the pilot project is likely to provide only minimal and basic support for up to 500 women for a maximum period of 12 weeks. If the pilot seeks to collect more data, then I highlight again that that has already been submitted by key specialist organisations during the review process.

As I highlighted in Committee, there is no guarantee that any lasting change will follow when the pilot scheme ends. It is only legislative protection for this

vulnerable cohort of mainly women that will ensure the Bill delivers its promise as landmark legislation that can deliver protection for all survivors in the UK. I look forward to hearing what the Minister has to say today, but I intend to press this to a vote.

Baroness Helic (Con) [V]: My Lords, in speaking to Amendment 87 I will not repeat all my arguments from Committee, but I will reiterate two key points. First, it would allow us to ratify the Istanbul convention and, secondly, it relates primarily to access to services and is separate from the question of immigration control. I am grateful to the noble Baronesses, Lady Hussein-Ece and Lady Hamwee, and the noble and learned Baroness, Lady Butler-Sloss, for joining me in sponsoring the amendment, to all noble Lords who supported it in Committee and are supporting it now, and to End Violence Against Women and Southall Black Sisters for their invaluable assistance. I add my support to Amendment 70.

Amendment 87 would ensure that all victims of domestic violence, whoever they are, get the support they deserve. When a crime is committed, when a man or a woman is abused, we offer them help, compassion and justice as our first response, not as a final stage. Domestic abuse cannot be hidden behind discrimination. That principle is central to the Istanbul convention, which insists on non-discrimination, including on the grounds of migration status. This will be the only area of the convention left outstanding once the Bill has passed and there is every sign that it will remain unresolved for some time yet.

Nine years after we signed the convention, we seem to have no plan to ratify it. Ratification enshrines the substantive requirements while still allowing the detail to be developed by the Government. Alignment of the legislative framework can be an ongoing process but it is clear that an international commitment is a powerful statement of intent. It has great symbolic meaning: that we are committed to treating every victim with dignity and will take every incidence of domestic abuse seriously from the point of disclosure. Ratification would be a signal to other countries around the world. It would also be a ray of hope for victims in this country.

In Committee, the Minister pointed to the Government's pilot project, the migrant victims scheme. I am concerned for two reasons. First, it misunderstands the crucial purpose of this amendment. The pilot is a way of deciding what specific support migrant women might need but the amendment is about establishing their fundamental right to support as victims. Those issues are related but they are not the same.

Secondly, as other noble Lords have already explained and specialist organisations repeatedly tell us, the migrant victims scheme seeks answers that we already know to problems that we can address today. It is an unnecessary delay that creates the appearance of action without any lasting resolution to the terrible situation faced by migrant victims of domestic abuse.

The history of the Bill should be a cautionary tale for all of us. It has taken more than two years to get to this point. Set that alongside the nine years since we signed the Istanbul convention, and I fear that if we do not take our chance to ratify it now, we may be in for a very long wait indeed. If we insist on delaying for the migrant victims scheme, we are saying that migrant women can have protection but only at some unspecified time years in the future. That is not good enough. The Government's failure to lay out a timetable for ratifying the Istanbul convention only confirms that. I was especially concerned to hear suggestions that the convention could be ratified with reservations so that the Government did not have to address this issue. That would be a very bad outcome indeed, above all for the migrant women themselves.

There is a point of principle here about fulfilling our international commitments. There is also a practical point: the amendment would ensure that the migrant women who are at such great risk could access those services they need. I reassure those who might have concerns about immigration that the amendment would not affect immigration control; it would not require changes to immigration regulations or to the Government's ability to control who comes to Britain and who gets to stay. However, it would offer protection from serious crimes to those who are here. If someone is attacked on our streets, we do not stop to check their passport before offering them assistance. Abuse behind closed doors should not be any different.

A non-discrimination amendment would mean that public authorities would be expected to take into account migrant victims' needs when dealing with them or making strategic decisions. It would ensure that survivors could access the services they needed to protect them from harm. It would make sure that the Government's stated desire to treat victims first and foremost as victims was a reality. It would guarantee that the provisions of the Bill truly worked for and applied to everyone, which they do not currently do, rather than just those lucky enough to be born in the right place. This can be the landmark Bill that we need, for which the domestic abuse sector, and victims and survivors of abuse, are calling, but it cannot do that while it ignores a section of society at serious risk.

I will close with the words of one migrant survivor. She was sexually abused by her ex-husband and other men before finding support from a refuge. She said, "The centre has allowed me to get independence. I have learned so much about life. I have joined college. I am learning every day and I am doing well. I have my autonomy back. I feel safe and less anxious about my future. I can now finally focus on getting help and getting better. I have met many women from different cultures and religions, and we live in harmony at the refuge. We go on courses together and help each other with the homework. We taste all sorts of food that we cook, and we share our lives, our experiences and hopes for the future. I love it here at the refuge. It is my home. It has honestly made a massive difference in my life."

We have heard many difficult testimonies throughout these debates. This is a reminder of the hope that we can offer and of the power of support and dignity to transform women's lives. That is what the Istanbul convention seeks to do; that is what the amendment can do. I hope that my noble friend the Minister can offer the necessary commitment on swift ratification.

Baroness Lister of Burtersett (Lab) [V]: My Lords, I wish to address just three issues in support of these amendments, which have been moved so powerfully.

[Baroness Lister of Burtersett]

First, in Committee the Minister argued that the DDVC and domestic violence rule were designed to

"provide a route to settlement for migrant victims who hold spousal visas."—[*Official Report*, 8/2/21; col. 98.]

The position of those who entered on other types of visa was addressed by the right honourable Theresa May on Report in the Commons. She took the point that generally they would have to show that they have independent financial support but noted that

"it is perfectly possible that they might find themselves in a relationship where the removal of that financial support is part of the abuse they are suffering. We have to take account of that as we look at this issue."—[*Official Report*, Commons, 6/7/20; col. 712.]

I wonder whether the Minister has taken account of that.

Secondly, the Minister explained that

"we have worked with the sector to launch the support for migrant victims scheme."—[*Official Report*, 8/2/21; col. 101.]

This is welcome and, as I said in Committee, it is to the Government's credit that they revised the scheme in response to some of the criticisms of the draft prospectus. However, as already noted, it remains the case that the sector does not believe that such a scheme is necessary and has real concerns that the funding made available will not meet the needs of many of the women who will be seeking help from it. I asked in Committee whether it would be possible to at least suspend the "no recourse to public funds" rule for this group during the lifetime of the pilot. However, I did not get a direct response, so I would appreciate one now.

Thirdly, with regard to the Istanbul convention, the Minister noted that

"the position on whether the UK is compliant with Article 4(3) … to the extent that it relates to non-discrimination on the grounds of migrant or refugee status, and with Article 59, relating to residence status, is of course under review, pending the evaluation and the findings from the support for migrant victims scheme"—[*Official Report*, 8/2/21; col. 100.]

4.45 pm

There is real anxiety that the Government may now try to reserve these articles in order to achieve faster ratification of the Istanbul convention, as noted by the noble Baroness, Lady Helic. I refer to the letter of 11 February about the convention from the International Agreements Committee to the Minister for Safeguarding, following her appearance before it. I apologise for quoting at length, but it is an important letter. It expressed deep concern,

"that you were unable to give us any assurances that the necessary measures would all be implemented this year to ensure ratification can take place promptly. This is particularly troubling in circumstances where the underlying agreement was signed by the UK in 2012 and subsequent progress has been so slow … it seems that the question of providing support to refugees and migrants experiencing violence and domestic abuse is not going to be resolved soon, and you acknowledged to us that work on this was unlikely to be completed until next year, at the earliest. We noted your suggestion that one way to expedite the process of ratification would be to enter reservations in respect of the provisions of the Istanbul Convention which relate to non-discrimination on the grounds of immigration status ... Under Article 79 of the Convention, any such reservation could remain in place for a (renewable) period of 5 years. We have serious doubts about this approach, which could result in the issue of non-discrimination remaining unaddressed for a prolonged period. We also note the proposal from the End Violence Against Women Coalition to amend the Domestic Abuse Bill to make specific provision for non-discrimination. A clause of this type could allow for the process of ratification to be expedited and we would support efforts to introduce a clause which would provide adequate support to all victims of domestic abuse, regardless of their migration status."

In other words, something on the lines of amendment 87. I share that deep concern. Can the Minister give an assurance that there is no intention to enter such a reservation, thereby potentially kicking the issue into the long grass?

In conclusion, I am afraid that Ministers can argue until they are blue in the face that the Bill's provisions apply equally to victims and survivors of domestic abuse, regardless of immigration status and that migrant victims should be treated first and foremost as victims. However, so long as they refuse to accept these amendments, I am afraid they will convince neither Members of your Lordships' House nor organisations on the ground—nor, most importantly, migrant victims and survivors of domestic abuse themselves. I do hope that the Government will think again, even at this late stage, and, if necessary, come forward with their own amendments at Third Reading.

Baroness Hamwee (LD) [V]: My Lords, I have put my name to both these amendments. The points made in the previous debate substantially apply, as well as the powerful speeches we have heard in Committee and today. I noted that the noble Baroness, Lady Helic, ended on a very positive note. Amendment 70 is about the destitution domestic violence concession, and I found myself thinking about the meaning of each of those words. At the previous stage, the Minister said that the system was designed for a different purpose,

"to provide a route to settlement for migrant victims who held spousal visas"—[*Official Report*, 8/2/21; col. 98.]

and had a legitimate expectation of a permanent stay. However, given the definition of domestic abuse, the term included in the amendment as part of the Bill and defined in it, even if one thought that any extension beyond someone with a spousal visa was inappropriate, there would surely be unlikely to be any substantial numbers.

Even if one thought that an extension of limited leave to remain from three to six months was too generous, it is only limited leave, as has already been said. Do the Government really believe that this would

"lead to more exploitation of our immigration system",—[*Official Report*, 8/2/21; col. 99.]

as was said in Committee? If we consider victims as victims first, what is the Government's proposal for the victims we are discussing here, who are in a very particular situation on top of everything else that they have to contend with?

Amendment 87 is about equality—positive equality without discrimination on the grounds of migrant or refugee status. This prompted me to think about the unconscious, sometimes perhaps conscious, prejudices that there are against equality and, indeed, against migrants—some migrants, sometimes all migrants. My noble friend Lady Hussein-Ece made a very succinct point in Committee that the amendment would enshrine a more consistent and cohesive approach which must be adhered to by all public authorities in providing for victim protection. She had hoped to be able to speak on the second day of Committee, but was unable to, so withdrew her name, and the procedures mean that she cannot speak on it today. I am sorry, because her voice would have been welcome.

This is another amendment that would deprive an abuser of a means of control and abuse. We were told in Committee and on other occasions that the ratification of the Istanbul convention is, of course, under review, pending the evaluation and findings of the support for migrant victims scheme. I am afraid that "under review" and "pending" sound to me rather like "parked". Both the noble Baronesses, Lady Helic and Lady Lister, mentioned the suggestion that we have heard from the Government—not in the debate, but before today—about ratification with reservations. I share their concerns.

I am baffled that there should be any resistance to ensuring that all victims of domestic abuse receive equally effective treatment and support, irrespective of who they are and how they came to be in the UK. In view of what has been called an inconsistent and even haphazard response by the police, we need to make clear that this is about equality. It is not about some victims qualifying and some not. Surely we accept equality. We accept that legislation is not necessary for ratification of the convention, but this is our opportunity to move ahead. What is the problem? Are the Government concerned about challenges to particular decisions? Is this in fact, as it was beginning to sound at the Bill's previous stage, about not victims first but Treasury first? If so, could we at least hear that said?

To me, the arguments of the noble Baroness, Lady Helic, are irrefutable, and she put them very clearly and powerfully. Our Benches support her. I hope that she will give the House the opportunity to support her. If she does not, I give notice that when we get to its place in the list, I will move Amendment 87 to put it to the House and, if necessary, take it to a Division, and I would be grateful if my voice could be taken accordingly.

Baroness Butler-Sloss (CB) [V]: My Lords, it is always a pleasure to follow the noble Baroness, Lady Hamwee. I agree with everything she and the previous speakers, particularly the right reverend prelate Bishop of Gloucester, have said. These two amendments follow on from Amendment 67, and it really is time that the Government at last implemented the Istanbul convention without reservations, treated all victims of domestic abuse equally and made provision for those subject to immigration control to have a route to make the appropriate applications. The Government would retain control, but it would at least give these people, who are not married, or not treated as married, a possible route to remain in this country—without having certainty of it, which would remain in the hands of the Government.

Without these amendments, like with Amendment 67, there is a danger of serious discrimination against groups of victims and the creation of a flawed piece of legislation negating much of what would otherwise be, as so many people have said, a landmark Act. I add that the pilot project is just delaying an important and necessary decision.

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, I declare an interest as the chair of the National Housing Federation. I will not repeat what I said in Committee on this issue. Suffice it to say that migrant women are particularly vulnerable in an abusive situation because their insecure immigration status can be used as a tool against them. They often cannot access refuges or other safe accommodation because they have no recourse to public funds.

Women's Aid, whose excellent briefing I acknowledge, considers that the Government may be in breach of several articles of the European Convention on Human Rights and in breach of the Istanbul convention obligations because they have failed to ensure that survivors with insecure immigration status can access equal support for and protection from domestic abuse. Assurances by the Minister in Committee that

"the Secretary of State is taking steps to ensure effective protection and support for all victims of domestic abuse"—[*Official Report*, 8/2/21; col. 99.]

have not convinced anybody. Amendment 70 provides a way through by regularising survivors' immigration status irrespective of whether or not they are on a spousal visa, and by extending the destitute domestic violence concession from three months to six months to underpin that.

In Committee, the Minister was reluctant to extend the rules in this way because it would undermine their original purpose. That rather begs the question of whether the original purpose was sufficient, and the trenchant points made by the right reverend Prelate the Bishop of Gloucester and all the evidence from migrant survivors suggest that it is not. It also begs the question: how do the Government otherwise propose to assure the International Agreements Committee that they are fulfilling their obligations under the Istanbul convention, when all those most closely involved can show quite clearly that they are not? I would appreciate it if the Minister would address both these points directly in her response.

Lord Lansley (Con): My Lords, I am glad to have this opportunity to follow the noble Baroness, Lady Warwick, who referred to the International Agreements Committee, on which I have the privilege to serve. We considered the question of the ratification of the Istanbul convention. The noble and learned Lord, Lord Goldsmith, the chairman of that committee, will have an opportunity to contribute to the debate in a few moments, so I will not pre-empt what he has to say by way of an authoritative description of the committee's views.

I want to add just three points. First, the Istanbul convention was signed by the coalition Government in 2012, a Government of which I was then a member. We would not have anticipated then that it would have taken so long for it to be ratified or that there would have been any difficulty in respect of non-discrimination in achieving that. I am glad the Government are bringing forward Clauses 66 to 68 to enable the extraterritorial jurisdiction measures to be dealt with. Surely now is the time and this is the Bill to take ourselves to the point where we can ratify.

Secondly, a number of us in your Lordships' House served in the other place and realise what it takes to get as many as 135 Members of Parliament to turn up on a Friday morning to support a Private Member's Bill, but that is what happened on 24 February 2017 to support what is now the Preventing and Combating Violence against Women and Domestic Violence

[Lord Lansley]
(Ratification of Convention) Act 2017. There is a tendency in government to say, "Well, that was just a Private Member's Bill." No, it is an Act of Parliament that requires Ministers to set out in a Statement to the House when they have a timetable for ratification and, in the absence of such a timetable, to report annually on the situation. Back in 2017, the 135 Members who turned up on a Friday morning to support that Bill and turn it into an Act would not have expected that there would have been four annual reports, with no resolution yet in sight and no timetable published by the Government. The evidence from this House and, indeed, the other House, is that Parliament expects that to happen.

5 pm

Thirdly, we looked at the whole question of a pilot scheme. I looked at the response of the review from July last year. It seems that even if a pilot scheme is required, what it is required to do is understand what the administrative processes concerned are—not suggest that we should be in contravention of our international obligations under the convention. We should accept Amendment 87 in the name of my noble friend Lady Helic, who was a distinguished adviser to that coalition Government, and say that whatever the outcome of the pilot scheme, whatever the administrative arrangements, we should not arrive at a position where we discriminate between people according to their status, including immigration status, in respect of the support they receive as victims of domestic violence and abuse. That cannot be the right outcome. Ministers, to be fair to them, have not suggested that they want to discriminate between people by their status. That being the case, we should use this opportunity to bring ourselves into compliance with our international obligations, then let Ministers work out subsequently what the administrative processes are for achieving that.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, that was a powerful speech by the noble Lord, Lord Lansley, particularly in relation to the ratification timetable. I hope the Minister is able to respond positively.

Listening to the debate, both at Second Reading and in Committee, and indeed today, I fail to see how any Member of this House could not be concerned at the plight of migrant women who are victims of domestic abuse. Given the vulnerability of these women in general, the Government need to agree and accept both these amendments. It is clear that the current, large proportion of migrant women who have no recourse to public funds are having real problems, being barred from accessing certain types of financial support from the state, including homelessness assistance and other welfare benefits.

As my noble friend Lady Warwick has just said, survivors staying in refuges most commonly support their stay using their housing benefit. The funding crisis within specialist domestic abuse services means that many are unable to support women who have no recourse to public funds. Migrant women in that situation have found it very difficult to secure a stay in a refuge.

We know that survivors in the UK on a spousal visa or one of a small number of family visas can apply for the destitute domestic violence concession, but only migrant women on a very limited number of visa types are eligible, and this arbitrarily leaves out an enormous proportion of migrant survivors with NRPF status, who have few options of where to go if they are experiencing domestic abuse. The Covid crisis has served to demonstrate how precarious the position of migrant survivors is and how essential it is they can access financial support from the state to keep them and their children safe.

I always thought it significant that the domestic abuse commissioner has stated that the no recourse to public funds rule means that a significant number of the most marginalised victims of domestic abuse in our society are unable to access the support they need. Not only does this leave people facing destitution, homelessness or staying with their abuser, it is discriminatory in the terms the noble Lord, Lord Lansley, has just referred to.

A number of noble Lords have referred to the Minister's comments at Second Reading and in Committee. They have commented on what she had to say about the use of the DDVC. But I would like to go back to her saying that the Government lacked data and, as a result, launched the pilot scheme. The problem I have with this is that this is the Bill that everyone is committed to supporting; noble Lords have worked very hard to achieve a consensus on the outcome. I, for one, find it difficult to allow this Bill to go forward without resolving these issues and the evident discrimination that applies to many migrant women.

As for the amendment of the noble Baroness, Lady Helic, I thought the evidence from the Equality and Human Rights Commission was significant:

> "Migrant survivors often find themselves in particularly vulnerable situations owing to their insecure immigration status being used as a tool of control by perpetrators. Their immigration status in turn bars them from access to essential services and support. These barriers are compounded by other factors such as language and a lack of understanding amongst services of relevant cultural and social issues."

I hope the noble Baroness will put this to the vote.

The Earl of Sandwich (CB) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Hunt, who always speaks with great reason.

My meetings with the excellent charity Kalayaan during previous immigration Bills—which some here will remember—left me in no doubt about the exploitation of migrant domestic workers in London and elsewhere. We heard some chilling case studies of how their employers confined them, did not pay them and removed their passports, among other forms of flagrant abuse and exploitation, which continue today. Noble Lords will also remember that the strength of such stories led directly to the Modern Slavery Act.

I have not yet spoken on this Bill, but I speak now, more narrowly, as a member of the International Agreements Committee, like the noble Lord, Lord Lansley, to support Amendment 87, persuasively argued by the noble Baroness, Lady Helic, and Amendment 70, which also concerns migrant workers. As the noble Baroness,

Lady Lister, said, the committee recently listened—with some surprise, I might say—to the Minister for Safeguarding proposing the pilot project to collect further evidence instead of ratifying the Istanbul convention. The Home Office problem is, as usual, that it cannot catch up with unregistered migrants. One can sympathise with that but, as was said, the procedure could take another 14 months at least. My noble friend Lord Kerr questioned her on this specifically, but the noble and learned Lord, Lord Goldsmith, will explain that we all thought the evidence was already running strongly in the other direction, and we were overwhelmingly in favour of the solution proposed originally by the End Violence Against Women Coalition, urging the Government to skip the pilot and adopt this amendment, which could then lead directly to ratification.

The relevant provisions of the convention relating to non-discrimination on the grounds of immigration status are Articles 3, 4 and 59. They say simply that all women, of whatever status, who are victims of domestic violence and abuse must be protected. Surely, delaying ratification any longer will seriously damage the UK's international reputation. This message also comes from our Council of Europe delegation, which has already made its position clear. I support both these amendments.

Lord Goldsmith (Lab) [V]: My Lords, it is a pleasure to follow the noble Earl, Lord Sandwich, who spoke as a member of the International Agreements Committee—I am its chair—as did the noble Lord, Lord Lansley, and as will the noble Lord, Lord Kerr, when he follows me.

Reference has rightly been made to our inquiry into why the Government have not yet ratified the Istanbul convention, which is described by the Council of Europe as the gold standard for the protection of women against violence. That is why I speak in this debate. We had the benefit of the evidence of the Minister for Safeguarding, Victoria Atkins MP; I believe we were all impressed by her determination to push the work forward, but I am afraid we were less impressed by the reason why this ratification had not yet taken place. She identified three reasons, two of which are being dealt with. The third was the issue covered by the amendment which has been spoken to so powerfully by the noble Baroness, Lady Helic, and other noble Lords today.

We took the view as a committee, as noble Lords have heard from our letter—which I signed with the authority of the committee on 11 February 2021—that we were very concerned that the Minister could not give us assurances that the necessary measures would be implemented this year to ensure that ratification could take place promptly. Indeed, it appeared clear from the evidence that ratification might not take place until 2022 or 2023. I think it was in that context that the Minister suggested that a way to get to ratification earlier would be to enter a temporary reservation against certain provisions, particularly those under Articles 4(3) and 59. The committee did not welcome that at all, because its potential effect would be to leave these important provisions—including non-discrimination provisions—outstanding for even longer. In the committee's view, that would be bad both in terms of the lack of protection for women covered by those provisions and for the reputational standing of the United Kingdom in this important area.

While I think the Minister, whom I commend on her frankness and candour, was trying to help in one sense by suggesting this reservation, it was not an answer to the problem. In the letter I have referred to, we said that what is in effect Amendment 87 would solve the problem and enable a much speedier ratification. She said she hoped the committee would recognise the direction of travel; I hope the Minister here today will recognise that the travel has now arrived at your Lordships' House with this amendment. It is time to vote for it, as I will gladly do if it is put to a vote, and bring that obstacle to ratifying the convention to an end.

The Deputy Speaker (Lord Alderdice) (LD): The noble Lord, Lord Kerr of Kinlochard, has withdrawn, so I call the noble Lord, Lord Griffiths of Burry Port.

Lord Griffiths of Burry Port (Lab): My Lords, this has been a passionate debate that has focused on a group of people who in normal circumstances—normal for them—have little opportunity to articulate their needs. That makes its importance all the more obvious and necessary. I have a carefully written speech, but its points have been made and I have no intention of repeating them.

I have nothing to add on the vulnerability of migrant women; this has been amply, eloquently and passionately described. Nor have I anything to add to the setting out of our long-overdue need to fulfil our international obligations by ratifying the Istanbul convention—that has been done in detail, again and again, by previous speakers. I also express my gratitude to the noble Lord, Lord Lansley, for painting a picture of the 135 Friday attendees, which is itself a considerable statement.

I am interested in the question because I and the noble Lord, Lord Russell, who is no longer in his place, are the two representatives from the delegation to the Council of Europe who sit on the Council's migration committee. We met last Friday, where one of our major topics of discussion was how the Council of Europe, with its focus on human rights, the rule of law and democracy, could play its part in conscientising the European Union—which is establishing a pact to deal with immigration—and affect and engage it in bringing to fruition an outcome which will both in this area and across a broader spectrum of issues enhance the diligent observation of the human rights of these vulnerable people.

5.15 pm

I look to the Minister beseechingly. I am the 12th speaker in this debate; looking at the names to come, she must not expect a divergence of view from all 12 of us who have spoken thus far. I really admire her industry and compassion and have a sneaking suspicion that, if she were not tied to the Front Bench, she might well be adding her voice to the case that we are making from all Benches. She has tried diligently to put as bold a face on things as she can on behalf of

[Lord Griffiths of Burry Port]
the Government she represents and speaks for. However, in 2017 the Home Office and the Ministry of Justice issued a statement under the heading:

"New Measures to allow ratification of the Istanbul Convention"

which went on to state that the Government intended the Domestic Abuse Bill as

"the final step to enable ratification of the … Convention".

There can be no doubt that, four years later, the non-arrival at that destination—with the Bill currently before us and reaching its end phase, the prospect of its not including this provision and the likely lengthy delays that will ensue from the process that has been described—is really and seriously a travesty.

In my work on the migration committee of the Council of Europe, I want to be able to argue from a basis of strength, as a Member of a Parliament which has ratified the Istanbul convention, in making the case to other countries. At the moment we are in the waiting room with Hungary, Ukraine and Lithuania, which have not yet ratified, and we are weakened in trying to persuade Poland and Turkey, which are trying to withdraw from it. I believe this Parliament must therefore understand not only the passionate nature of the cause of victims and survivors of abuse in general but the way we put our argument and represent the cause on the larger stage beyond this place.

Baroness Jones of Moulsecoomb (GP): My Lords, it is a pleasure to follow the noble Lord, Lord Griffiths of Burry Port. He opened by saying that noble Lords before him had said almost everything he wanted to say and then managed to contribute a huge amount of valuable observation. It was very interesting to listen to him; I agree with every word.

Other noble Lords have said virtually everything. I add only that I am concerned by the Government's hostile environment, which I have always found difficult to understand. It plays to a right-wing agenda with which I have no sympathy at all and poses a moral question as to what their aim is. What is the Government's priority? Do they care more about helping survivors of domestic abuse end that abuse and making them safe, or about catching and deporting migrants, even where the only thing affecting their lawful residence in this country is the fact that they have fled an abusive relationship? I would very much like an answer. I also invite the Minister to put aside her bold face and perhaps tell us that the Government just want to help people—in which case, these two amendments do exactly that. I very much hope that the Government will perhaps accept these amendments and, to a tiny extent, drop the hostile environment for survivors of domestic abuse.

The Deputy Speaker (Lord Alderdice) (LD): The noble Lord, Lord McConnell of Glenscorrodale, has withdrawn so I call the noble Lord, Lord Paddick.

Lord Paddick (LD) [V]: My Lords, as we have heard, the first of these amendments

"would provide migrant victims of abuse"

who do not have secure immigration status

"with temporary leave to remain and access to public funds … so they can access support services",

such as refuge places,

"while they flee abuse and apply to resolve their immigration status."

Less than 6% of refuge beds are available to women without recourse to public funds, for example. It would extend the domestic violence rule and destitute domestic violence concession to a few thousand more migrant survivors of abuse who are not covered by the existing provisions, which cover only a limited group of survivors on certain spousal and partner visas. It would also extend the period covered from three months to six to allow sufficient time for their immigration status to be regularised.

With the greatest respect to the Minister, the phrase

"we require a more complete and reliable evidence base"—[*Official Report*, 8/2/21; col. 99.]

is being a little overused in the course of the Bill; she has already deployed this argument in relation to community support services. As the right reverend Prelate the Bishop of Gloucester said in Committee, the evidence

"has already been submitted by key specialist organisations"

in

"response to the Home Office's migrant victims of domestic abuse review in September 2020."—[*Official Report*, 8/2/21; col. 80.]

The government pilot announced at Second Reading in the other place covers only about 500 women for a period of 12 weeks. I am always sceptical of pilots announced in the face of amendments designed to make permanent changes.

Amendment 87 would require the Secretary of State to take steps to ensure that all victims of domestic abuse, irrespective of their status, receive equal protection and support; this would include the migrant victims of domestic abuse in Amendment 70.

A number of noble Lords have mentioned the Istanbul convention. I was particularly struck by the contribution of the noble Lord, Lord Lansley, who was a member of the coalition Government that signed the convention in 2012. He also mentioned the Private Member's Bill, now an Act, that was passed by Parliament in 2017. Getting 135 MPs to turn up on a Friday when their allowance, unlike ours, does not depend on their attendance—and they were giving up valuable time in their constituencies—showed the strength of feeling on this issue.

This amendment cites Article 4(3) of the Council of Europe convention on preventing and combating violence against women and domestic violence. Article 4 requires parties to

"take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere."

I mentioned this in the debate on the previous group. Article 4(3) states:

"The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground".

It then goes on to list a whole range of factors in the convention, specifically listing the prohibition of discrimination on the grounds of sex, gender, sexual orientation, gender identity and "migrant or refugee status".

We support Amendments 70 and 87, and expect Divisions on both of them. We will support their movers when it comes to the votes.

Lord Rosser (Lab) [V]: My Lords, I seek to be relatively brief. Amendment 70, moved so compellingly by the right reverend Prelate the Bishop of Gloucester, would extend the destitution domestic violence concession to all migrant victims of abuse, providing them with

"temporary leave to remain and access to public funds, for a period of no less than six months … while they flee abuse and apply to resolve their immigration status."

Amendment 87, to which the noble Baroness, Lady Helic, spoke so powerfully, would ensure that

"all victims of domestic abuse are protected, regardless of their status, in line with Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence."

Amendment 70 addresses a major gap in the Bill—namely, the lack of provision for migrant women in particular. They are probably one of the most vulnerable groups suffering domestic abuse. Despite that, they do not get the same level of support as other domestic abuse survivors, with the suspicion being that migrant women in this position are all too often regarded as immigration cases rather than victims of domestic abuse—making it even more likely that abuse of migrant women will take place and simply continue.

This is because the reality is that migrant women who do not have established immigration status find it difficult, if not impossible, to access refuges and other essential support services to escape abuse. Also, their abusers know that they do not have funds of their own—their abusers make sure of that—and have no recourse to the public funds necessary to access that support because of their lack of status. As the noble Lord, Lord Paddick, reminded us, less than 6% of refuge beds are available to women without recourse to public funds because refuges cannot carry out their vital work without income.

I await the Government's response, particularly to see whether it still seeks to put off making any meaningful specific commitment to address the plight of migrant women suffering domestic abuse, and whether the response also suggests that, at heart, the Government still regard migrant women without established immigration status who suffer domestic abuse as primarily an immigration issue rather than a domestic one.

In Committee, the Government spoke about a pilot exercise. Again, the right reverend Prelate highlighted the inadequacy of that exercise and the fact that it does not actually commit the Government to doing anything.

The domestic abuse commissioner-designate supports this amendment, and the evidence in support of it is already there in the public domain. The terms of this Domestic Abuse Bill have been debated and discussed for a number of years, going back to when Theresa May was Home Secretary. No doubt as a result of that discussion and consideration, the Bill marks real progress in a number of areas.

However, the fact that the Government still say that they do not know enough about the plight of migrant women faced with domestic abuse to agree to this amendment says a great deal about their attitude to, and the priority they give to, this particular highly vulnerable group. The time to act is now. Action should not be delayed or kicked into the long grass any longer.

We support Amendment 70. We will also support Amendment 87, which seeks to ensure that

"all victims of domestic abuse are protected, regardless of their status",

if it is taken to a vote.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank the right reverend Prelate the Bishop of Gloucester and my noble friend Lady Helic for their continued commitment to providing support for migrant victims of domestic abuse. I want to take this opportunity also to thank the International Agreements Committee, which is represented so well this afternoon.

As I highlighted in Committee, I know that we all share the view that anyone who has suffered domestic abuse, regardless of their immigration status, should be treated first and foremost as a victim. Although the Government appreciate the sentiment behind these amendments, we still do not think that they are an appropriate way forward.

Amendment 70 seeks to provide at least six months' leave and access to public funds to all migrant victims of domestic abuse, as well as providing them with a route to apply for leave to remain. Amendment 87 seeks equally effective protection and support for all victims of domestic abuse, irrespective of their status, while also referring to Article 4(3) of the Istanbul convention.

5.30 pm

Starting with Amendment 70, I think that the right reverend Prelate is still seeking expansion of the existing destitution domestic violence concession—or DDVC—and the domestic violence rule so that they make provision for all migrant victims of domestic abuse, irrespective of the very wide range of circumstances represented in this group. As I highlighted when this amendment was debated in Committee, while the Joint Committee which examined the draft Bill recommended that the Government consider some changes to the DDVC and DVILR, its recommendations fell short of suggesting incorporating the DDVC into the Immigration Rules.

Furthermore, it concerns me that Amendment 70 is based on a misunderstanding of both the purpose and rationale of the destitution domestic violence concession and the domestic violence rule. Both have only ever been intended to provide a route to settlement for migrant victims who hold spousal visas because, had their relationship not broken down as a result of domestic abuse, these victims would have had a legitimate expectation of staying in the UK permanently.

Moreover, those eligible under the DDVC have consciously set aside a permanent home in their country of origin to adopt a permanent home in the UK with a British citizen or someone to whom we have granted settlement. I emphasise that neither the DDVC nor the domestic violence rule were designed to support those without this legitimate expectation. Expanding the scope of both provisions would undermine the

[Baroness Williams of Trafford]
specific purpose that gave rise to them. It would introduce into that simple purpose a whole set of ancillary considerations, blurring the principle on which settlement in the UK is based, and opening up the prospect of exploitation of vulnerable migrants.

Those risks aside, I put it to the House that many people in this country would find it hard to understand why a person who has come to the UK on a temporary basis, perhaps as a visitor or student or on a short-term contract, should be provided with a route to apply for leave to remain by virtue of the fact that they are a victim of domestic abuse. That is arguably the effect of Amendment 70, which states that new immigration rules must make provision for any person subject to immigration control who is a victim of domestic abuse to have a route to apply for leave to remain. We need to focus on the provision of support, not the immigration status of the victim.

With regard to the suggestion that the DDVC be extended to six months, I highlight to noble Lords that support provided by the DDVC can already extend beyond three months. We know from internal management information that the majority of applications under the DDVC lead to an application for DVILR—domestic violence indefinite leave to remain—being made within three months. However, even for those who require longer than three months, provided that the application for indefinite leave to remain is made to the Home Office before the three months has expired, leave continues under existing terms and conditions until the application is decided. To all practical effect, the support can continue beyond three months. Even if an application for DVILR is not made within the three-month window, the DDVC can already be extended on a case-by-case basis.

The noble Baroness, Lady Lister, made reference to NRPF—no recourse to public funds—which of course is a long-standing principle, supported by successive Governments, started initially in 1999 under Section 115 of the Immigration and Asylum Act under Labour. The scheme that we are referring to will provide accommodation-based services, so of course the NRPF condition does not need to be disapplied here.

The noble Baroness, Lady Jones of Moulsecoomb, talked about the hostile environment. Again, that was coined under Labour, and the previous Home Secretary, my right honourable friend Sajid Javid, stated very clearly that that environment would no longer be in place.

As noble Lords will be aware, we committed to undertake a review into the Government's overall response to migrant victims of domestic abuse, including those with no recourse to public funds. We published the findings of the consequent review last July. Although some evidence was provided, it was insufficiently robust to demonstrate which cohorts of migrant victims are likely to be in most need of support, the numbers involved and how well existing arrangements may address their needs. It was clear that a robust evidence base is needed to ensure that funding is appropriately targeted to meet the needs of migrant victims.

We encountered similar issues with the evidence gained from the tampon tax fund. Since 2017, the Government have provided over £1 million from this fund to support migrant victims with no recourse to public funds. While it is clear that this fund has helped deliver much-needed support for a number of individuals and much has been learned, we require a more complete and reliable evidence base to enable us to take long-term decisions.

Against this backdrop, we have committed to providing £1.5 million for the Support for Migrant Victims scheme to address those evidence gaps, as well as covering the cost of support in a refuge or other safe accommodation for migrant victims of domestic abuse who are unable to access public funds. This evidence will be used to help inform decisions on how best to protect these victims in the long term. The competition for the scheme closed on 8 February and we are looking to award funding in due course. The scheme will then run to the end of March next year.

I am conscious that, when we refer to migrant victims of domestic abuse, it is easy to fall into the trap of dealing with the latter as a homogenous group with similar, if not identical, circumstances and needs. However, that could not be further from the truth and from what these vulnerable victims require from us. We need to recognise each victim as an individual, with different and diverse needs that warrant further investigation. In achieving this, we want to establish a robust data set that we can interrogate about the circumstances in which support is most needed, the duration of the support needed, what kind of support works best, and how different individuals exit from support to regain their independence. The Support for Migrant Victims scheme will enable us to do just that, to ensure that the information we need is available to inform future policy-making and ensure that decisions taken are sound.

On Amendment 87 in the name of my noble friend, it is our view that the Support for Migrant Victims scheme and the associated evaluation work clearly illustrate that the Government are taking steps to ensure effective protection and support for all victims of domestic abuse. This scheme will be available to all migrant victims at the point of need while their eligibility for the scheme is assessed and other routes of support are explored.

What is more, the data collected through the Support for Migrant Victims scheme will provide the information we need to assess current provisions and ensure that effective protection and support is available to migrant victims of domestic abuse. I thank my noble friend for her continued commitment to support migrant victims, but we do not think that the amendment is necessary in the light of the action that we are taking.

My noble friend, the noble Baroness, Lady Lister, and others talked about the Istanbul convention. As set out in the latest annual report on our progress towards ratification of the convention, published on 22 October last year, the position on whether the UK is compliant with Article 4(3) of the convention to the extent that it relates to non-discrimination on the grounds of migrant or refugee status, and with Article 59, relating to residence status, is "under review"—noble Lords have quoted me on this—pending the evaluation and findings from the support for the migrant victims scheme. The noble Baroness, Lady Lister, pressed me on whether we were just trying to park

it—no; ultimately, we would not be doing this scheme unless we wanted to see where the gaps were and evaluate it.

The noble and learned Lord, Lord Goldsmith, talked about it too, and I think it was he who talked about equally effective protection. That is obviously outlined in Amendment 87, which goes beyond the requirements of Article 4(3) of the convention. The latter requires that the parties ensure that the implementation of the convention, particularly measures to protect the rights of victims, are secured without discrimination on any ground. The duty not to discriminate reflects the principles of non-discrimination under Article 14 of the European Convention on Human Rights—as set out in the explanatory report to the convention—that any difference in treatment between groups must have an objective and reasonable justification. It does not require that all groups are always treated equally. Amendment 87 arguably goes further than that, because it then imposes a public duty to ensure that all victims of domestic abuse, regardless of status, receive equally effective protection and support.

The provisions in the Bill apply equally to all victims of domestic abuse whatever their status, including the ability to apply for a domestic abuse protection order or the provisions in respect of special measures and the prohibition of cross-examination in person. We think that the amendments are not the way forward and that the central issue for migrant victims of domestic abuse must surely be the provision of support, not the immigration status of the victim.

I appreciate that the support for migrant victims of domestic abuse is a significant issue for many noble Lords. We know this and have worked with the sector to launch the support for migrant victims scheme, which will run to March next year. For those who argue that we should not lose this opportunity to legislate, I remind noble Lords that the DDVC has operated successfully as an administrative scheme, so we do not necessarily need legislation to provide further support to other cohorts of migrant victims. In light of the action that we have taken, and continue to take, I would like the right reverend Prelate the Bishop of Gloucester to withdraw her Amendment 70. If she does push it to a vote, I invite noble Lords to reject it.

The Deputy Speaker (Lord Alderdice) (LD): I have received a request to speak after the Minister, so I call the noble Baroness, Lady Lister.

Baroness Lister of Burtersett (Lab) [V]: I thank the Minister for her very full reply. She said, rightly, that I had pressed her and that there was no intention to park the issue, but what I really pressed her on was an assurance that there is no intention to enter a reservation to the Istanbul convention on the question of migrant women.

Baroness Williams of Trafford (Con): My Lords, I can state quite honestly from my point of view that I know of no intention to enter a reservation.

The Lord Bishop of Gloucester [V]: My Lords, I am very grateful to all noble Lords who have spoken. Again, I thank the Minister for her very full response and for her real passion about providing support for all victims and survivors of domestic abuse.

I do not want to repeat everything I said in my opening speech, because I think we are at risk of going round in circles. But the Minister herself said that this is not a homogenous group and that it was about treating each person as an individual. That is why we are asking for this temporary leave to remain and access to public funds, so that each person can be treated as an individual and the right action can be taken.

5.45 pm

There is a lot of confusion around visas and the real division between spousal and non-spousal visas, when we know that there is actually a lot of nuance within that. There is no point us simply saying that it is working for people, because we know that it is not. Further, the consequence of the exclusion of many of these women from the DV rule and the DDVC is not that they will return home—the result is that they will remain in abuse. We know that from the charities and the stories that we have heard.

I really do not have anything to add, apart from what has already been said throughout this debate. I do not want us to go round in circles. I want to ensure that support is available for every person. In reference to Amendment 87, which we will come to later if the House is divided, I echo everything that has been said on the ratification of the Istanbul convention, and I hope that the Government will move on this.

I believe that Amendment 70 is limited and workable. I also think that it is imperative that the other place has an opportunity to look at this issue again, because the details of the pilot project had not emerged when they discussed it before, and we now have those. I therefore seek to test the opinion of the House.

5.47 pm

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Deben, L.
Deech, B.
Deighton, L.
Dobbs, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dunlop, L.
Eames, L.
Eaton, B.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Erroll, E.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fairhead, B.
Fall, B.
Farmer, L.
Faulks, L.
Fellowes of West Stafford, L.
Fink, L.
Finkelstein, L.
Fleet, B.
Flight, L.
Fookes, B.
Forsyth of Drumlean, L.
Foster of Oxton, B.
Fox of Buckley, B.
Framlingham, L.
Fraser of Craigmaddie, B.
Freud, L.
Frost, L.
Fullbrook, B.
Gadhia, L.
Gardiner of Kimble, L.
Gardner of Parkes, B.
Garnier, L.
Geddes, L.
Gilbert of Panteg, L.
Glenarthur, L.
Godson, L.
Gold, L.
Goldie, B.
Goodlad, L.
Grabiner, L.
Grade of Yarmouth, L.
Green of Deddington, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Hailsham, V.
Hamilton of Epsom, L.
Hammond of Runnymede, L.
Hannan of Kingsclere, L.
Harris of Peckham, L.
Haselhurst, L.
Hay of Ballyore, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hoey, B.
Hogan-Howe, L.
Hogg, B.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Johnson of Marylebone, L.
Jopling, L.
Kamall, L.
Keen of Elie, L.
Kilclooney, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lindsay, E.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Mancroft, L.
Manzoor, B.
Marland, L.
Marlesford, L.
McColl of Dulwich, L.
McCrea of Magherafelt and Cookstown, L.
McDonald of Salford, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
McLoughlin, L.
Mendoza, L.
Mone, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Morrow, L.
Moylan, L.
Moynihan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Patten of Barnes, L.
Patten, L.
Pearson of Rannoch, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Popat, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Rana, L.
Randall of Uxbridge, L.
Ravensdale, L.
Rawlings, B.
Reay, L.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rose of Monewden, L.
Rotherwick, L.
Sanderson of Welton, B.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shields, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Smith of Kelvin, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Stewart of Dirleton, L.
Stirrup, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Tebbit, L.
Trefgarne, L.
Trenchard, V.
Trevethin and Oaksey, L.
Trimble, L.
Tugendhat, L.
Udny-Lister, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Vinson, L.
Wakeham, L.
Waldegrave of North Hill, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

6 pm

Amendments 71 and 72 not moved.

The Deputy Speaker (Lord Alderdice) (LD): We now come to the group beginning with Amendment 73. Anyone wishing to press this or the other amendment in the group to a Division must make that clear in debate.

Amendment 73

Moved by ***Baroness Royall of Blaisdon***

73: After Clause 72, insert the following new Clause—

"Monitoring of serial and serious harm domestic abuse and stalking perpetrators under Multi-Agency Public Protection Arrangements

(1) The Criminal Justice Act 2003 is amended as follows.

(2) In section 325 (arrangements for assessing etc risk posed by certain offenders)—

(a) in subsection (1), after ""relevant sexual or violent offender" has the meaning given by section 327;" insert ""relevant domestic abuse or stalking perpetrator" has the meaning given in section 327ZA;";

(b) in subsection (2), after paragraph (a) insert—

"(aa) relevant domestic abuse or stalking perpetrators,".

(3) After section 327 (Section 325: interpretation) insert—

"327ZA Section 325: interpretation of relevant domestic abuse or stalking perpetrator

(1) For the purposes of section 325, a person ("P") is a "relevant domestic abuse or stalking perpetrator" if P has been convicted of a specified offence and meets either the condition in subsection (2)(a) or the condition in subsection (2)(b).

(2) For the purposes of subsection (1), the conditions are—

(a) P is a relevant serial offender; or

(b) a risk of serious harm assessment has identified P as presenting a high or very high risk of serious harm.

(3) An offence is a "specified offence" for the purposes of this section if it is a specified domestic abuse offence or a specified stalking offence.

(4) In this section—

"relevant serial offender" means a person convicted on more than one occasion for the same specified offence, or a person convicted of more than one specified offence;

"specified domestic abuse offence" means an offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning defined in section 1 of the Domestic Abuse Act 2021;

"specified stalking offence" means an offence contrary to section 2A or section 4A of the Protection from Harassment Act 1997.

(5) Within 12 months of this Act being passed the Secretary of State must commission a review into the operation of the provisions of this section.

(6) The Secretary of State must lay before Parliament a report setting out the findings of the review under subsection (5) which must include a comprehensive prevention and perpetrator strategy for domestic abusers and stalkers for the purposes of—

(a) improving the early identification, assessment and management of perpetrators;

(b) increasing the number of rehabilitation programmes;

(c) increasing specialist work to tackle abusive attitudes and behaviour; and

(d) ensuring a co-ordinated approach to data collection and management of perpetrators across England and Wales.""

Member's explanatory statement

This amendment amends the Criminal Justice Act 2003, which provides for the establishment of MAPPAs, to make arrangements for serial domestic abuse or stalking perpetrators to be registered on VISOR and be subjected to supervision, monitoring and management through MAPPA. It would require the Government to provide a comprehensive perpetrator strategy for domestic abusers and stalkers within one year of the Act being passed.

Baroness Royall of Blaisdon (Lab) [V]: My Lords, I am grateful to my noble friend Lord Hunt of Kings Heath, who moved my amendment in Committee; to the noble Baroness, Lady Brinton, and the noble Lord, Lord Russell, for also adding their names to the amendment; to the noble Baroness, Lady Newlove, whom I regard as my noble friend, who cannot speak due to procedural issues but who has given me her strong support; to my right honourable friend Yvette Cooper MP, who moved a similar amendment in the Commons; and to the Minister, for all the work that she has done on this important Bill—as she knows, I hold her in the highest esteem.

We have been on a long journey, but there is more to do to tackle gender-based violence and misogyny. Following the appalling murder of Sarah Everard, it is with deep sadness but increased determination that I speak to my Amendment 73. The disappearance and murder of Sarah highlights yet again the fear and reality of male violence for all women. The one thing that unites all women is the fear of male violence. As Margaret Atwood once said, men are afraid that women will laugh at them; women are afraid that men will kill them.

Women are tired of domestic abuse and stalking being considered a women's issue. They have spent years being told that they should change their behaviour, they have made thousands of reports to the police which have not been listened to or properly recorded and they are desperate for change. The culture of misogyny has to change. Just last week, women were told not to go out after dark—the same advice that was given after the Peter Sutcliffe murders 40 years ago. As ever, the onus was put on women, whereas violence against women is a man's problem. We need men to step up, to take ownership and responsibility and to create the urgently needed change that holds other men to account for their behaviours. We need to focus on perpetrators.

This is a time to look to the future to prevent the violence, abuse, coercive control, stalking and murder of women in our society. I cannot help but reflect, however, on the fact that, together with victims, survivors, their families and professionals, we have been urging the Government for many years to legislate for the effective identification, risk assessment and management of perpetrators and their inclusion on a national register.

Laura Richards, in the 2004 report *Getting Away with It*, a profile of domestic violence, sexual and serious offenders, published by the Metropolitan Police Service, highlighted that many domestic abusers and stalkers are serial perpetrators who go from victim to victim and that one in 12 of them raped inside and outside the home. The recommendation was made for serial domestic abusers and stalkers to be proactively identified, assessed and managed by police, prison and probation services, using the Multi Agency Public Protection Arrangements and the violent and sexual offenders database. However, 17 years later, this is still not happening.

Two HMIC inspections revealed deeply troubling findings. The 2014 inspection into the police response to domestic abuse revealed no risk management of perpetrators, and the 2017 HMICFRS report into stalking revealed 100% failure by every police service and Crown Prosecution Service in six areas. Recommendations were made in both reports, but action was there none.

I draw your Lordships' attention to four cases that are personally known to me, in which women were failed abysmally by lack of action and by not having a register or a perpetrators strategy including risk assessment and management. Jane Clough, an A&E nurse, warned police that her violent ex-partner Jonathan Vass was going to kill her when she separated from him. Vass coercively controlled Jane and threatened to kill her when she left him. He raped her repeatedly and assaulted her. Jane was terrified when Vass was bailed, having

been charged with seven counts of rape and three assaults. She moved to her parents' house, the extraordinary John and Penny, with her baby. She did not leave the house for three months because she was so scared, but Vass started stalking her on Facebook. He waited for her to return to work from maternity leave and arrive at the hospital car park, and stabbed her 71 times. He had a history of abusing other women that was not joined up.

Hollie Gazzard was stalked and murdered by Asher Maslin in the hairdressing salon in which she worked. Hollie reported to police many times. There was no proactive investigation, risk assessment or risk management, despite Maslin being involved in 24 previous violent offences, including three on Hollie, 12 on former partners, three on his mother and four on others.

Helen Pearson called Devon and Cornwall Police 144 times over five years. She told police that she thought the person writing threatening graffiti saying, "Die, Helen, die", damaging her car and putting out the windows of her flat was a man called Joe Willis. Helen was terrorised and became a virtual prisoner in her own home. Each time she reported another terrifying event, Helen told the police that it was part of a pattern and she read out the crime report number. The police closed the investigation and Helen attempted to take her own life, as she was at her wits' end, but the abuse continued to escalate. Not only was Helen and her property targeted, but he targeted her parents and made their lives a living hell. The police did not investigate him, nor was he ever spoken with despite the fact that he had a history. Two weeks before he grabbed Helen off the street and stabbed her eight times with a pair of scissors, he left a dead and tortured cat on her doorstep. At no point was Helen or Willis proactively risk assessed or managed. The police in fact focused on investigating Helen, as they believed that she was making it up.

Zoe Dronfield was almost killed by Jason Smith, who had previously abused 13 women. No one checked his history and she was told to get a nicer boyfriend. His history was all at one police force, the West Midlands. He had victimised a police officer before Zoe, who said that he would seriously harm or kill a woman one day, yet nothing was done.

On 10 October 2017, the Minister told me, in answer to an Oral Question:

> "Domestic abuse and stalking perpetrators can already be captured on the dangerous persons database and managed by police and probation under multiagency public protection arrangements, or MAPPA."—[*Official Report*, 10/10/17; col. 106.]

We knew at the time that that was not working and now we have even more proof, with more women living in fear, being abused physically or mentally or, at worst, being murdered.

In that time, a great deal of guidance has been issued: a new framework has been adopted by Her Majesty's Prison and Probation Service, setting out arrangements for working with people whose convictions or behaviours include domestic abuse; and the College of Policing has adopted a set of eight principles on the

> "identification, assessment and management of serial or potentially dangerous domestic abuse and stalking perpetrators".

The amount of money being spent by charities on programmes to work with perpetrators has increased, thanks to the Government. All of this is very good, but not enough.

Since the Second Reading of this Bill in your Lordships' House on 5 January, 30 women have been killed—the perpetrators all men: Sue Addis, Carol Hart, Jacqueline Price, Mary Wells, Tiprat Argatu, Christie Frewin, Souad Bellaha, Anne Turner, N'Taya Elliott-Cleverley, Rose Marie Tinton, Ranjit Gill, Helen Joy, Emma Robertson Coupland, Nicole Anderson, Linda Maggs, Carol Smith, Sophie Moss, Christina Rowe, Susan Hannaby, Michelle Lizanec, Wieslawa Mierzejewska, Bennylyn Burke, Judith Rhead, Anna Ovsyannikova, Tina Eyre, Samantha Heap, Sarah Everard, Geetika Goyal, Imogen Bohajczuk and Wenjing Xu. We honour these women, including through our determination to bring about change.

In a recent meeting with the Minister and her officials, for which I am grateful, it was agreed that the current system is not working. It was suggested that the problems resulted from gaps in practice, rather than gaps in process, and that more strategies and guidance will suffice. It will not. No matter how many tools are added to the tool-box, the gaps between practice and process will not be narrowed, as they must be, until there is a coherent and co-ordinated national system and those implementing the process have to do so by law. It is, for example, not good enough to rely on best practice; we know that that does not work. There are some great examples of best practice, but they are rare. That is why we need a clear, consistent, national approach, which must include the proper identification, assessment and management of serious perpetrators.

The amendment makes explicit the importance of utilising data and technology in the prevention of domestic abuse and the management of perpetrators. I know that the noble Lord, Lord Russell of Liverpool, will focus on this. However, it is important to stress that, at the moment, perpetrators travel with impunity, but information about them is static.

On process, domestic abuser and stalker cases are currently not heard at MAPPA meetings. Ofttimes the cases are not seen as "serious", despite guidance, and specialist domestic abuse and stalking services are not invited to attend MAPPA. Ofttimes there may be no physical abuse but high levels of coercive control. This is not seen as a risk by most professionals, yet research shows that it correlates significantly with femicide. In 94% of murders of women there was coercive control preceding separation and stalking post separation. That comes from a report from the University of Gloucestershire in 2017. The fact that a perpetrator is serial also increases the risk, yet this is not currently taken into consideration.

That is why my amendment requires a change in the law to create a new category—category 4—to ensure that serial and high-harm domestic abusers and stalkers are identified, monitored and managed by MAPPA-plus. MAPPA-plus would include domestic abuse, coercive control and stalking specialists around the table. This would create much-needed clarity that these perpetrators must be proactively identified, assessed and managed by police, prison and probation via the statutory body

[Baroness Royall of Blaisdon]

of MAPPA. A new category would arguably create more clarity and ensure that perpetrators did not get lost or deprioritised among others. Guidance could include that each area must identify 10 to 20 serial and high-harm domestic abusers and stalkers to be heard at MAPPA under category 4. Equally, "serial" has been defined as two or more victims, and offences can be specified just as they currently are at MAPPA. The perpetrators must also be included on ViSOR, the violent and sex offender register. Data collection is needed as perpetrators travel and their detailed history must follow.

I was delighted to read in the *Sunday Times*:

"Ministers are considering plans for a national register to monitor men who harass or are violent to women in response to an outcry over the murder of Sarah Everard.

Priti Patel, the home secretary, and Robert Buckland, the justice secretary, are understood to support a 'super-database' that would log details of the estimated 50,000 men convicted annually of offences including harassment, coercive control and stalking.

Police and social services would be given access to the register, which would act as an 'early warning system' when men commit certain crimes or move into local areas. A minister involved in discussions over possible legislation"

is alleged to have said:

"'These people are often in the system, but who's keeping tabs on them?'"

How true.

Speed is of the essence. We need the Bill to deliver the register of perpetrators, but this amendment is not just about the register; is it also about a comprehensive perpetrator strategy for domestic abusers and stalkers that would improve the identification, assessment and management of perpetrators and ensure a more co-ordinated approach to data collection across England and Wales. Following the murder of Sarah Everard and the outpouring of concern, anger and grief by hundreds of thousands of women who live in fear, it is time to act. It is not for women to modify or change their behaviour: it is for men to change, to cease their violent actions; it is for society to bring about a cultural change in which misogyny is unacceptable; and it is for government to take leadership.

We can no longer rely on guidance, past or impending strategies or the potential sharing of best practice. We can no longer simply focus on victims; we have to focus on perpetrators. I am therefore pleased to support Amendment 81, tabled by the noble Lord, Lord Strasburger, and I strongly urge the Minister to accept this amendment. If she is not minded to do so, I will seek the view of the House. I beg to move.

6.15 pm

Baroness Brinton (LD) [V]: My Lords, I shall speak to Amendment 73, to which my name is added. I also support the amendment in the name of my noble friend Lord Strasburger. I too extend my deepest sympathies to the family and friends of Sarah Everard, but also to all the families and friends of those murdered since the beginning of this year. That there have been 30 murders of women since your Lordships' House had its Second Reading of this Domestic Abuse Bill in January this year is deeply shocking. I suspect, as many of their cases come to court, that we will hear details time and again of how women sought help but were not able to get it from the people they should have been able to trust: the police and other parts of our judicial system.

I will briefly focus on three women murdered in the last five years, because what went wrong for them is still going wrong on a regular basis for this most heinous crime. They are Shana Grice, Pearl Black and Janet Scott.

Michael Lane stalked and murdered Shana in 2016. He had abused 13 girls before Shana and they had reported him for stalking. Shana herself reported him multiple times to Sussex Police. Despite this, there was no focus on Lane's behaviour or his history, only on Shana's. Outrageously, she was issued with a fixed penalty notice for wasting police time. She was polite and terrified, and went to the police for help. Shana did everything right, but there was no proactive investigation of Lane. In fact, he was interviewed by the police for just 12 minutes. There was no intelligence or information sharing, or referral to MAPPA.

Simon Mellors murdered two women, Pearl Black and Janet Scott. He murdered Pearl in 1999 when she split up with him. When he came out of prison, he began a relationship with Janet Scott. He coercively controlled her, threatened her and tried to kill her, which she reported to Nottinghamshire police and probation. At this point, Mellors should have been recalled on licence but no action was taken, despite her repeated reports. She was brutally murdered in 2018. The probation officer had told Janet that he doubted Mellors would reoffend, yet, when he did, police and probation took no action, saying that they just did not identify stalking behaviour. So why is it that a man who has killed his previous partner is not seen as a risk when Janet is terrified and reporting him for threatening to kill her? Janet did everything she could, and, despite the fact that Mellors had killed before, nothing was done to manage the risks and to stop him doing it again.

That is why Amendment 73 is necessary. I also heard yesterday that the Government are now considering consulting on a register for stalkers and serious and serial domestic abusers. That is not good enough. The need for a register is now and, as important, arrangements for MAPPA and ViSOR need to be strengthened. There is some very good practice, but it is not consistent, because the agencies are not being forced to work together and the impact that it is having on victims is appalling, as evidenced by the 30 murders we have seen this year alone.

My own experience was when a campaign of harassment, intimidation and then stalking started against me when I was the general election candidate in Watford. The perpetrator was my Conservative candidate opponent, a man called Ian Oakley. One of his particularly unpleasant traits was to harass and intimidate members of my local team to get to me, including poison-pen letters delivered to many houses in my area about our councillors, alleging that one of them had not supported his child in a previous marriage, and then later that he was a child sex abuser. None of this was true. He also perpetrated increasing levels of criminal damage to properties of people who supported me at election time. He sent obscene hand-drawn

cartoons showing me in graphically sexual acts to our constituency office on postcards so that Royal Mail staff would see them too.

But for me, as his main target, on top of all these things happening day after day, week after week, there was more. He sent false letters about me to the weekly newspaper, the *Watford Observer*, making allegations about my family circumstances, trying to have us investigated by children's services, as we were guardians and carers to two bereaved children. He reported me to Special Branch for falsifying my nomination papers; I had not. He dropped letters through my letterbox just so I knew that he knew where I lived. He phoned me very late at night and then did not talk. He sent me the most disgusting pornographic magazines in envelopes, but without stamps on, so I had to go to the Royal Mail collection office and pay for an envelope without knowing that it was yet another form of abuse. His messages would let me know that he had been following me at night when out canvassing. It was utterly relentless for three years.

Initially, I coped by cataloguing, reporting and helping others to report incidents to the police; I had a comprehensive Excel spreadsheet that grew. For the first 18 months, each reported incident was dismissed as "not serious". Then the incidents grew and became more serious. Once we were at over 130 incidents on my spreadsheet, two detectives suddenly got it—they joined up the dots. By this time, we knew who it was, but there was no proof. We were issued with an operation name and mobile numbers for the detectives.

Publicly, I was very angry and determined that he would be caught, but privately, I felt constantly sick and nervous most of the time. I became tearful and anxious about having to go out campaigning in the evening in winter months; always watching, anywhere I went. I also felt personally responsible for the incidents targeted at my friends, colleagues and supporters, and I know that other victims of stalkers feel the same when their families and friends are targeted too.

Even when we had the evidence, after my husband bought and installed 10 CCTV cameras at the sites repeatedly targeted by Oakley, two things happened that still shock me today. The first was that a very senior police officer warned the detectives that they would be unlikely to prosecute a case like this, seen as political. That changed when Oakley started on my noble friend Lady Thornhill, who was then the elected Mayor of Watford, and an arrest was made very swiftly, thank goodness. The second thing was that not one of the more serious charges—to which Oakley had pleaded not guilty—was taken any further. This included incidents using 10-inch knives to slash car tyres, defamatory poison-pen letters distributed to large numbers of people, and the sending of pornographic images. For all of this, he received an 18-week suspended sentence—for a three-year campaign—and a year's community order.

I relate my experience because the nature of the progression of the stalking is of utter relentlessness, and the police reaction is still not unusual. In 2016, eight years after my case, only 37 stalking offenders and 93 harassment offenders received a sentence of 12 months' imprisonment or more and were therefore automatically eligible to be managed under the MAPPA process as category 2 offenders. However, we do not know how many of these offenders were either referred to or subsequently managed under MAPPA, but as the number of automatically eligible offences is low, and the number of prosecutions for serious harassment and stalking is considerably higher, we can infer that a substantial number of potentially dangerous individuals were not managed under recognised offender management processes.

The *Violence Against Women and Girls* report shows that in 2017-18 80% of stalkers did not face a charge. Out of over 10,000 only 1,800 were charged, 212 were convicted and only 48 went to prison. Furthermore, most cases were recorded as harassment or something lesser, as in my case, and in 2018-19 there was a further 10% decrease in stalking prosecutions. It is probable that the new stalking protection order will make sure that this continues to decrease as it is an easy alternative. In many domestic violence and stalking case prosecutions—where it is rare that convictions occur—unduly lenient sentences resulted for stalking, domestic violence and coercive control: namely, weeks, months or suspended sentences, which in no way reflects the severity of the crimes.

Stalkers have specific and complex needs to address due to their fixated and obsessive behaviour. For some, this behaviour becomes more serious as time goes on. There is a lack of suitable programmes for stalkers that will reduce the likelihood of reoffending and protect members of the public. It is vital that police, prosecutors, probation, judges and magistrates are trained to understand stalking, including the risks and dangers of stalkers, as well as the stalking legislation which was introduced in 2012 following the stalking law reform inquiry, which I worked on with Robert Buckland. This assumes even more significance if there is to be a stalkers' and serial perpetrators' register database, which we are calling for in this amendment. We believe it is urgently needed—now. We urgently need the elements to ensure that people such as stalkers are included in MAPPA.

Baroness Bertin (Con): My goodness me, I am almost left speechless by the account of the noble Baroness, Lady Brinton, of what happened to her; I am so sorry that she had to endure that, and it is hard to disagree with a word that she said. Having taken the now enacted Stalking Protection Bill through this House, I understand the very serious nature of this issue. I would also like to say that the noble Baroness, Lady Royall, has spoken passionately to her amendment.

One note of caution is that MAPPA adviser arrangements are far from perfect as they stand. Only one thing that could be worse than not monitoring serial offenders and stalkers in this way is to say that we are keeping track of them, but in fact the opposite turns out to be true, due either to poor resourcing or a systems failure. So, if my noble friend the Minister is minded to reconsider this amendment, we must make sure the systems have the resource and the capacity—but it is hard to disagree after hearing the noble Baroness, Lady Brinton, make that speech.

I will now speak to Amendment 81. Sometimes events happen that make society stand up and say, "No more". The tragic murder of Sarah Everard has

[Baroness Bertin]
done exactly that. As we know, she is the 118th woman to be killed over the past year. Their names may be less familiar, but each and every one of them must be remembered. I praise the honourable Member for Birmingham Yardley for doing just that in the other place, and also the noble Baroness, Lady Royall, who just now read out the 30 women who have been killed since the Bill was brought to this House.

I hope noble Lords will forgive me if I mention my own cousin once again. Her name was Christine Bertin. At the age of 18 she had her whole life in front of her. Instead, she was murdered by a complete stranger. He had been harassing local girls in her neighbourhood in a suburb in Paris and she, also, had caught his eye. Unbeknown to her and my family he stalked her movements over a period of time, and when he knew she was alone in the house he forced himself in and he strangled her.

My heart therefore goes out to all those families who have lost loved ones at the hands of a killer. The journey they are now on is a long and lonely one, with no real end in sight. My cousin died many years ago now, but the sorrow we still feel is as acute as on the day she was murdered. No family should ever feel this. Sympathy and anger can and will spill over, but the only real thing we can do for them and their dead daughters, sisters and mothers is to ensure that they have not died in vain. We have to match heartfelt words with the far harder task of making changes that will actually drive down this death toll for good. I believe there is a lot in this Bill that will work towards that.

Stranger attacks and domestic abuse are inextricably linked. The media will alight on the former, and the latter, quite unacceptably, often just gets a shrug, as though it is some kind of inevitability. But the reality is that abuse and misogyny in the home flows freely into the street; they are the same crime. I often reflect that, if the police at the time of my cousin's murder had taken that man's harassment of young girls more seriously, if his behaviour had been called out as grossly unacceptable by his peers, or if he had been put on a perpetrator scheme such as the ones we now know work, my cousin just might still be alive today. His behaviour, and that of so many potential murderers and serial abusers, was simply allowed to carry on unchecked and unstopped. This must end.

However, the debate should not be about men versus women. If a boy is seeing only abuse and violence at home, compounding it with violence and abuse online, without the right support and guidance there is a chance that he will carry on that cycle. Early intervention and recognition of this are essential. I am grateful to my friend, the noble Lord, Lord Strasburger, for relaying this amendment. It was in my name in Committee and I support it wholeheartedly.

In the interests of time, I will not repeat what I said in Committee, but it feels more urgent than ever to focus attention on the perpetrator—the person actually committing the abuse. We will never see any real change in behaviours and attitudes if we carry on putting this as an afterthought. The new funding for perpetrators announced in the Budget was very welcome; more will be needed if we are to ensure a quality response everywhere, but it is certainly a really important move to building up a quality-assured national capacity to respond to perpetrators. We know that fewer than 1% of perpetrators receive any kind of intervention; that is a shocking statistic.

6.30 pm

Experts have been calling for a strategy for more than a year now. In Committee, my noble friend the Minister acknowledged that it was needed. Will the Government now press on with developing a strategy and do it properly, in a way that is commensurate with the problem? It does not matter whether the strategy is self-contained or part of something wider; what is important is that it is comprehensive and consulted on. It should make clear what the Government want to see different parts of public service delivery do and how they will help them do it, whether in housing, probation or health. The domestic abuse commissioner has also highlighted that quality assurance is vital for effective perpetrator programmes, as is multiagency decision-making, something we have heard time and time again throughout these debates. Given that she has been mapping perpetrator services, the Government should take note of the clear gaps in provision before any rollout of schemes. There have been lost opportunities with this year's £10 million fund as it was granted to parties so late. To make best use of the £15 million fund announced this year, work should be done to scope and plan the pilot properly prior to the summer. I also hope the Minister will change her view on the timing of a year, given the urgency that policymakers now face.

This amendment, alongside the Bill generally, which I support enormously, could go some way to building genuine change over the coming years.

Baroness Grey-Thompson (CB) [V]: My Lords, I am in an unusual situation. When I am fourth on the list, I would usually feel that I had something to contribute, but listening to the harrowing experiences of the noble Baronesses, Lady Brinton and Lady Bertin, it makes me feel that this is the most challenging amendment I have ever spoken on. The noble Baroness, Lady Royall, very clearly explained the need for this amendment and the fear that women face. I feel very privileged that I have met the family of Jane Clough, whom she mentioned, and listened to their heart-breaking experiences and how time and time again they felt that they were not being listened to.

Like so many women in public life, I have experienced very uncomfortable situations where I have had unwanted attention, been bombarded and had threatening behaviour. I have been incredibly lucky that people have helped and supported me through it, but even with that support and police support around me, I was not able to sleep, I could not eat, I was scared to go out and I was constantly looking over my shoulder. It changed how I felt about myself and my ability to cope with everyday life, and that was with help and support around, so imagine what it must be like to feel that nobody is listening to you and nobody is helping. That is why I strongly support Amendment 73 and the amendment in the name of the noble Lord, Lord Strasburger.

I thank the London School of Economics, which provided incredibly useful information and support on this amendment. Gathering data is important, but so is sharing that information with police forces. It does not seem right that this data is not systematically shared and is shared only through the Police National Computer, which records only charges.

I urge the Minister to listen to the speeches tonight. A comprehensive perpetrator strategy for domestic abusers and stalkers is essential. It is needed more urgently than a year from now. It must help the identification, assessment and management of perpetrators. We must focus on perpetrators' behaviour and not blame victims. We must support the victims to enable them to have a chance to get through it. I shall not say any more on amendments tonight, but I strongly support the amendment and will vote favour of it if the noble Baroness divides the House.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, like the noble Baroness, Lady Grey-Thompson, I strongly support my noble friend Lady Royall. Like her, I essentially want to see a co-ordinated, consistent and mandatory approach to the flagging and targeting of perpetrators, with a statutory obligation on police, prison and probation services to identify, assess and manage serial and serious domestic abuse perpetrators and stalkers. Without such a comprehensive approach, we will not get anywhere with this problem.

The appalling murder of Sarah Everard yet again highlights the fear and reality of male violence for all women. Femicide is at an all-time high; a woman is murdered by a male ex-partner every three days. These are not rare occurrences, as the police so often claim to justify the lack of priority given to the protection of women. The list of women killed by men since this Bill had its First Reading, read out by my noble friend, is surely testimony to that. Throughout the first lockdown. five women a week were killed by a male partner or ex-partner.

It is so striking that most of those men had a history of harming other women—yet there is no proactive risk identification or assessment or management of the perpetrators. Ministers attribute this, essentially, to poor practice. The noble Baroness, Lady Williams, has argued that offenders should be managed under MAPPA—but the reality is that domestic abuser and stalker cases are just not heard at MAPPA meetings; they are screened out as cases not seen as serious.

In a moving, courageous speech, the noble Baroness, Lady Brinton, referred to three cases. I want to talk about another one: that of Cherylee Shennan. Cherylee was stabbed to death outside her home by convicted killer Paul O'Hara in March 2014 in front of police officers who had been called to investigate reports of domestic abuse. She had suffered a broken nose, repeated facial bruising and a broken jaw at O'Hara's hands. She was held hostage at knifepoint at least twice before O'Hara killed her.

O'Hara was previously given a life sentence in 1998 for killing ex-partner Janine Waterworth, but he was released on licence in 2012. He had other previous serious convictions for violence against women. He had been assessed in prison as displaying traits of psychopathy. At the time of his release, he was assessed as posing a serious risk to women. Despite his history, O'Hara's risk was not required to be managed within MAPPA.

Cherylee's family first suspected that O'Hara was abusing her when they saw her with serious facial injuries at a family gathering on bonfire night. At the time, Cherylee gave an alternative explanation for the injuries but, on 1 March 2014, she told her sister Ellen that it was O'Hara who had caused them, that he had also fractured her jaw and that he had held her hostage at knifepoint. She also told her sister his offending history.

The family called the police. Police officers attended what they believed to be an ongoing domestic violence incident, without any knowledge of O'Hara's history. They discovered his history on doing a PNC check at Cherylee's home, but they took no positive steps to arrest or risk-manage O'Hara. They also did not take a full account either from Cherylee, who was fearful of the consequences of police involvement, or from the family members present who could confirm the injuries.

Coroner James Newman published a "prevention of death" report, raising alarms over the lack of interagency communication between probation services and the police. In his findings, he questioned the role of MAPPA. He said that, following O'Hara's release,

> "there were no local MAPPA meetings, no inter-agency meetings and no significant inter-agency communications regarding the perpetrator, no detailing of his licence conditions, and no information regarding either his nature or the trigger factors of his offending. My concern is despite this, and the findings of the report, there is still no mandatory process for the sharing of information between agencies where the offender, despite a known extensive history of domestic abuse and identified trigger factors, is then managed at MAPPA Level 1."

This is the tragedy of the current system. Chief constables apologise when these cases come to light and promise to do better, but history repeats itself time after time. The Government set great store by guidance; the police and probation services are awash with it, but it is not read, it has no teeth and very little has changed in 20 years. Serial perpetrators and stalkers are simply not visible or held to account, even though past behaviour is the best predictor of future behaviour. We know that they are transient; they seek to control the most vulnerable women and children, and if that includes moving across borders to meet their needs, they will do so.

There is no duty on the police to add any information or intelligence about a perpetrator's previous offending to a local or national system; if information is put into the local system, it often lacks the detail required. The burden is placed on the victim and too often the perpetrator's narrative is believed rather than the victim's. As my noble friend said, how many times do we see the depressing response from the police that women in the wake of these terrible crimes should stay indoors at night for their own safety? It is as if it is women's responsibility and, essentially, they are to blame.

My noble friend also referred to the 2014 to 2017 inspections by Her Majesty's Inspectorate of Constabulary into the police response to domestic abuse perpetrators. The recommendations from these reports still have not been put in place locally or nationally. It is the same with homicide reviews. Why is that so? The reality is

[Lord Hunt of Kings Heath]
that domestic abuse and stalking responses are woefully underresourced. Misogyny and institutionalised sexism are rife and no amount of guidance will change that.

On data, the noble Baroness, Lady Grey-Thompson, is so right. Police forces do not have systematic ways of recording the same person, victim or perpetrator; hence, repeat victims or perpetrators are not spotted and no action is taken to protect and prevent. As she said, police forces do not share data systematically with each other apart from through the Police National Computer, which records only charges. The advice of LSE researchers Professor Tom Kirchmaier, Professor Jeffrey Grogger and Dr Ria Ivandic—which suggests that police forces should use machine learning predictions based on two-year criminal histories because it would be more effective—is ignored.

Last year, over 80 signatories, including charities such as Women's Aid, Respect and Action for Children, as well as academics and individuals, called on the Government to invest in a perpetrator strategy. Nicole Jacobs, the designate domestic abuse commissioner said:

"I support the call on Government to publish a Strategy on Perpetrators of Domestic Abuse."

As she said:

"Current prevention work is patchy and too often perpetrators go unchallenged and are not offered opportunities to change their abusive behaviour."

If we are to better protect women and girls, the Government must act now to support these amendments and shift the focus onto the men who cause the fear, terror and violence. It is time, too, that we eradicated misogyny and sexism from our criminal justice system. It is time these dangerous domestic abusers and stalkers were registered and monitored in the same way as sex offenders, and that the victim's right to safety and to live free of fear was realised and prioritised over an abuser's right to freedom.

6.45 pm

Lord Strasburger (LD) [V]: My Lords, it is always a pleasure to follow the noble Lord, Lord Hunt, who has made several powerful speeches during the passage of this Bill. I shall speak to Amendment 81 in my name. It requires the Government to devise a perpetrator strategy to prevent, identify and assess perpetrators. It would increase the number of rehabilitation programmes and better tackle attitudes before they lead to a crime. It goes without saying that it is far better to prevent repetition of domestic abuse before it occurs. Even better, we should aim to prevent abuse happening in the first place.

At a time when violence against women is sadly in the headlines once again, we have a duty to do all we can to prevent crimes that can be entirely predictable, as we have heard, and often follow a multitude of warning signs, as the noble Baroness, Lady Royall, illustrated in her four examples and as other speakers have done. Domestic abuse is a crime hidden in people's homes. Behind the doors of ordinary homes, tens of thousands of victims live in pain and fear with their own families. Domestic abuse is a terrible, secret crime.

Several noble Lords have used the phrase "murder in slow motion" because when domestic abuse reaches its logical end, often after years, the murder is so very predictable. And yet it still happens, time after time—women mostly, dying after years of injury at the hands of the men they loved. The Bill sets out to help those victims when they leave their abuser and report them—when they have had enough.

However, Amendments 73 and 81 seek to prevent the crimes happening in the first place, so that victims do not have to leave and perpetrators can see what they are doing and choose to stop before another tragedy, of which there are so many, ending in injury, pain or death. We need to step in before children who witness this tragedy grow up and take everything they have learned into their own relationships, playing out the same tragedy again 20 years down the line.

Good-quality perpetrator programmes help those who assault, coerce or frighten those closest to them to stop. The best programmes help perpetrators realise that they do not do it because anyone makes them; they do it because they choose to, and they can choose not to. Good perpetrator interventions have stunning success rates, which I and other noble Lords have already rehearsed in this House. How can we possibly fail to do everything we can to stop the pain, the destruction and the transfer of this tragedy down through the generations? The Government must do everything they can to discover the best of these programmes, roll them out over the entire country and fund them in such a way as to make them a part of a well-used and reliable method of reducing this sickening secret crime.

We must do more. In their sex and relationships education classes, the children of this nation must be taught not only what good relationships look like and how to treat their future partners with respect, but also what an abusive relationship looks like. Then they will be able to recognise when a relationship of their own, which may have started well, begins to sour. Once we have shown them what it looks like, we should tell them where they can get help, what they can do, how they can stop it, or how they can escape it and who they can call.

In Committee, the Minister responded to this amendment with an assurance that a perpetrator strategy will be included within the forthcoming domestic abuse strategy. It has also emerged that a total of £25 million of initial funding is available. However, the Minister's statement was rather short on important detail and I hope she will be able to fill the gaps in her reply. I invite the Minister to tell the House the Government's position on the following matters, for all of which I provided her with advanced notice.

Will the Government not only fund behaviour change interventions but stimulate changes across public service delivery to better detect and prevent abuse in the first place? Will the perpetrator strategy set measurable targets? Will the Government lay out plans to stimulate social change to end any lingering tolerance of abusive behaviour? Will the Government commit the Home Office to work with other departments to shape the perpetrator strategy and ensure their buy in? Will they consult experts outside government across public services and the specialist women's sector?

Will the perpetrator strategy contain clear guidance on quality for commissioners to ensure that there is no risk of public money funding poor practice? Will the perpetrator strategy set out the Government's funding intentions for the next three years? Above all, will the Government no longer allow perpetrators to fly under the radar and abuse time and again? We must stop asking: "Why doesn't the victim leave? Why doesn't she keep her children safe?" We must start putting responsibility to change on those who are being abusive, until the abuser can ask himself: "Why don't I stop?"

I look forward to the Minister's response. If necessary, I will test the opinion of the House, depending on what she has to say.

Baroness Sanderson of Welton (Con): My Lords, I will speak briefly to Amendments 73 and 81. I applaud the intentions of both amendments but will raise a couple of practical points. I hope that they do not seem inappropriate after the shocking testimony of the noble Baroness, Lady Brinton, and the very powerful and moving speech by my noble friend Lady Bertin.

In relation to establishing a register, the aim of adding serial abusers and stalkers to ViSOR is to make it easier for agencies across the country to identify and monitor perpetrators. In principle, this seems sensible. It puts the burden on the perpetrator, not the victim, and, given that many high-harm perpetrators are repeat offenders, it could help manage the risk. However, there are concerns from some working on the front line as to whether it would achieve that goal in practice.

ViSOR is a vital tool for the police, prison and probation services, but its effectiveness depends on the quality and timeliness of the information recorded within it. If we are to extend it, then there must be questions about who goes on it, how long they stay on it and, given the potential size and complexity of such a database, how we ensure that it is fit for purpose. Will it be able to do the job for which it is intended? No one has yet found satisfactory answers to these questions. As I said, I applaud the intention, so I would be grateful if my noble friend the Minister could outline some of the alternative ways in which the Government can and will strengthen oversight in relation to perpetrators.

The call in Amendments 73 and 81 for a perpetrator strategy is more straightforward. Thanks to the innovative work of SafeLives and its partners in the Drive project, we know that targeted intervention programmes work. As they say, domestic abuse is not inevitable. We can and must stop it recurring and, indeed, occurring in the first place. I question whether we need to call for this on the face of the Bill, given that the Minister has already assured us that it will be part of the forthcoming domestic abuse strategy. However, like others, I do not question the need for it. As recent events have shown us, the focus should be on the perpetrator, not the victim.

Like others, I put on record my deepest sympathies for Sarah Everard's family and friends. We all hope that something good can come out of something so unfathomably bad, but we should never forget that at the centre of this national debate is a very personal tragedy and a private grief.

Baroness Jones of Moulsecoomb (GP): My Lords, I could not believe the three opening speeches we had. Listening to the noble Baroness, Lady Royall of Blaisdon, I thought, "Well, that's unbeatable." Then we heard the speech of the noble Baroness, Lady Brinton, which was equally unbeatable, and then from the noble Baroness, Lady Bertin, who was also unbeatable. I am not sure that I have very much to contribute except that, over the past week, I have had several hundred abusive emails. Those men—virtually every single one was a man—felt that it was all right to send to my parliamentary account the most incredible abuse. I am well aware that some women MPs at the other end have this sort of thing all the time, sometimes thousands of emails every week. It is just staggering that these people think that they can write this abuse, send it and let someone else read it. I am absolutely astonished at this.

The problem is that misogyny is embedded in our society, and we have not dealt with it. The only way we can deal with it is through education, and this is education that starts with children—but it also starts with educating our police force. We have heard these stories about how the police just do not take it seriously, because they do not understand it. Just as there is a lot of misogyny in wider society, there is misogyny in the police. Many times, 20, 30 or 40 years ago, one would hear police officers saying about domestic abuse incidents, "Oh, it's just a domestic." It sounds very much as if they are not taking it seriously now, all these decades later.

I am going to repeat myself—and I know that I am not allowed to do so on Report—but I have said on several occasions that police forces should have mandatory training on how to recognise and deal with domestic violence. Some forces have done it and, where they have done it, it is noticeable that they have a better attitude to women, but we also see the prosecution and sentencing of male offenders increase dramatically. Nottinghamshire Police has had that training and improved its rate of prosecution of male abusers, and it behaved phenomenally well on Saturday night, when our dear Met police really messed up.

Here we have these amendments, which pose the question: how seriously do we want to take domestic abuse and domestic violence? There are processes in place administered by specialists for managing and monitoring serious sexual and violent offenders, and I do not understand why this apparatus is not being used for domestic abusers and stalkers. The noble Baroness, Lady Royall, said that best practice does not work, but why does it not work? I just do not understand. Perhaps the Minister can explain why it is not working.

It is high time that we got serious about domestic violence. The perpetrators should wear a label and have to disclose it with anyone they try to form an intimate relationship with, and they should be monitored and managed in line with the seriousness of their offending behaviour. These people are generally very unlikely to display one-off behaviours of domestic abuse and violence; these patterns of behaviour are totally engrained into their personality, for whatever reason. Perhaps they saw domestic violence as a child or perhaps there is some other underlying reason—but whatever it is, it happens and we have to protect women against it.

[Baroness Jones of Moulsecoomb]

We can have all the support for the survivors that we possibly could, but it is infinitely preferable to have a world where there are no perpetrators, rather than supporting survivors. Without stamping out the behaviour of perpetrators or forcing serious consequences on their behaviour, we cannot stamp out the evil of domestic abuse—and, yes, I am afraid that it has to be in the Bill. First, most of us do not actually trust the Government to do it if it is not in the Bill. Secondly, if it is there it is visible, and people understand that it is being taken seriously—so I ask the Government to accept these amendments. Obviously, the Green group will vote for whichever are brought to a vote.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I am delighted to follow the noble Baroness, Lady Jones of Moulsecoomb, and I associate myself with many of the comments made by previous speakers. I pay tribute to the noble Baronesses, Lady Royall of Blaisdon and Lady Brinton, and my noble friend Lady Bertin for being so brave as to share their thoughts and experiences. Obviously, we are all deeply touched by the murder of Sarah Everard. I also record my growing concern. In 2009, Claudia Lawrence disappeared on her way to work as a chef at the University of York and has never been found. No one knows whether she is alive or dead, and, very sadly, her father passed away without knowing any more. I am very aware of the extent of the concern about the crime of stalking and more serious offences against women.

Some of the thoughts I would like to share this evening are my own, but I am also grateful for the briefing I have received from the Suzy Lamplugh Trust. We should also remember the tragic loss of Suzy Lamplugh.

7 pm

Amendment 81, as I think my noble friend Lady Sanderson said, is to a certain extent more straightforward. There is much to commend a strategic plan for perpetrators of domestic abuse. I await with great interest my noble friend the Minister's response to that.

My understanding is that the Criminal Justice Act 2003 already places a statutory duty on agencies to co-operate to manage certain categories of offenders. This does not exclude stalkers, so it is unclear how creating a register, as proposed under Amendment 73, would work in co-ordination with that duty. During the 18 years when I was a Member of Parliament—for two separate constituencies—my limited experience with MAPPA, the multiagency approach, was not an entirely happy one. It would be much better to have one lead agency, and I leave it my noble friend the Minister to decide which agency that should be. Of course agencies should co-operate and collaborate, but it is much more satisfactory when one agency is in control.

There is a problem which I hope my noble friend will address either through the forthcoming consultation or when dealing with Amendment 73, which is before us. As it stands, the amendment does not allow for information pertaining to perpetrators to be shared with other services and agencies. My understanding is that ViSOR is a confidential system that many professionals dealing with stalking cases would not be able to access and, further, that hardly any police officers have access to ViSOR. The information on it would not necessarily be immediately available to front-line officers responding to calls about a perpetrator. Apparently, the current situation is that checks on ViSOR have to be justified, while ViSOR terminals and their locations must be risk-assessed for security. That surely has to change; ViSOR must be more readily available to prevent future stalking offences, given the events of the last three months that were put so graphically and emotionally to us this evening.

I understand that the provision also already exists to ensure that perpetrators can be managed beyond their licence conditions. MAPPA is currently not being used as it potentially could, therefore more emphasis should be placed on upskilling criminal justice agencies to use MAPPA. Does my noble friend the Minister expect that her department will authorise that? Apparently, there is a requirement for two stalking convictions to have taken place in order to get a stalking perpetrator on the register, which adds an unnecessary obstacle, whereas they could already be placed on ViSOR without conviction if they are considered dangerous. Again, might my noble friend be minded to consider this?

The numbers speak for themselves. It has also been raised by the Suzy Lamplugh Trust that Amendment 73 has appeared in the context of a Domestic Abuse Bill. Does the Minister share my concern that this could potentially create a two-tiered system between domestic and non-domestic stalkers? That would be very regrettable? Clearly, this is a gender-based crime and it is on the increase. Current legislation is not dealing with it, I am sure, to the satisfaction of the House.

Stalking is a serious crime that is currently underreported and under-prosecuted. Figures for 2019-20 from the Office for National Statistics reveal that there were only 3,067 charges for stalking offences, let alone convictions. I hope that my noble friend will take very seriously the two amendments before us and that she will consider the reservations I have expressed to ensure that we have the best legislation that is fit for purpose, either through this Bill or in subsequent Bills. I believe that this would be best addressed either through the amendments before us or in a government amendment, if my noble friend was minded to bring one forward in due course.

The Earl of Lytton (CB) [V]: My Lords, I am pleased to support these two amendments. Many of the points that I would have made have been covered much more eloquently by others, so I shall try to be brief.

My first point is that we are not even accurately recording stalking and other domestic abuse cases. There have been consistent failures in this respect: apparently no common form of data recording is being applied, so flitting from one police area to another seems to be the workaround of choice for the serial perpetrator. That really has to stop.

Secondly, even when incidents have been reported, and one assumes recorded, they are not being followed up. The problems around information sharing have been voiced widely by other noble Lords, and I agree with them.

Thirdly, it is therefore not surprising that multiagency attempts to deal with this issue have not been sufficiently effective. I will pause to applaud the many instances of good and effective work being done in this field, but it is not universal and domestic homicide reviews have pointed out consistently how earlier and/or effective intervention could and should have been made, but was not. There may be multiple reasons for this: differences in available skills, divergences in policies and priorities, sectoral protocols, funding streams, management or policy direction, and gaps between policy and operational decisions. There may also be a deficit in accountability on the latter point, not only in the police but in other public institutions. Perhaps no one is in overall charge, a point that has been made by the noble Baroness, Lady McIntosh of Pickering, and others. Even if there was, as matters stand, funding and co-ordination would remain questionable.

Further than that, as noted by others, the provision for perpetrators is utterly inadequate—although I appreciate that the Government now appear to be minded to start addressing this.

At Second Reading I pointed out the work described by the Sussex police and crime commissioner about the cost-benefit of dealing with perpetrators. This is the critical point of this group of amendments: the proper identification, assessment, monitoring, management and application of therapy to perpetrators is cost-effective and of lasting general societal benefit. My information is that, while some perpetrators may be psychopathic and incurable—with apologies if I have used the wrong term—many are themselves suffering from deep-seated inadequacies that can and should be addressed.

Amendment 73, which has been put forward so ably by the noble Baroness, Lady Royall, addresses the need for a coherent approach. If I have any reservations at all, it is that it may not go far enough, which might have been the point behind the speech of the noble Baroness, Lady McIntosh.

Amendment 81, which is specifically about perpetrator strategies, has been spoken to eloquently by the noble Lord, Lord Strasburger. I agree with him for all the reasons he has given. He covered everything that I would have addressed, and more besides. This needs to be the stuff of a national network to which any court in the land can effectively refer the convicted and in which those who want to change their ways voluntarily may also participate. The programme would have to be coherent and delivered to consistent standards. We should aim to rehabilitate offenders and those who may not yet be in the criminal system. I noted with satisfaction that the noble Baroness, Lady Royall, did not advocate locking up and throwing away the key, which has been the subject of some of the comments that I have received from outside the House.

The noble Lord, Lord Strasburger, noted the many indicators that can and should be picked up to facilitate early intervention. So, despite all the shortcomings that I recognise, I would simply remind noble Lords of the research done by the University of Manchester and others: it is not that we cannot afford to deal with this resolutely but that we cannot afford not to. The amendments get my wholehearted support and, if it comes to a Division, will get my vote.

Lord Rooker (Lab) [V]: My Lords, I will speak briefly to give maximum support to my noble friend Lady Royall, but in effect to all speakers, since I have not heard anything that I disagree with.

I have four short points to make. First, I was very struck that buried in the short but useful briefing from the London Assembly was a warning that carrying on on a more casual, non-statutory basis does not work. It points out that in London from January to November 2019, the current domestic abuse protection order was used in only 0.5% of domestic abuse offences recorded by the Metropolitan Police. So the warning is that we have these well-intentioned tools but they are not used by the police or magistrates. I was very struck by a point made by the noble Baroness, Lady Bertin, in her powerful speech, and it is a warning to the Minister: saying "We'll do it" but then not doing it makes the position far worse. It is a question of resources in finance and of course in will, and that is a crucial point that has to be made.

Secondly, I share the questions of the noble Baroness, Lady McIntosh of Pickering, having read the briefing from the Suzy Lamplugh Trust about domestic and non-domestic stalking. As the previous speaker, the noble Earl, Lord Lytton, said, Amendment 73 probably does not go far enough.

Thirdly, my noble friend Lord Hunt of Kings Heath made a point about the numbers affected each week, but we also have to remember not just what happened last week and what has happened since the Bill came into your Lordships' House, but the fact that we know for certain that by the end of this week another two females will have been murdered.

Fourthly, regarding perpetrators, we have heard the range of examples that noble Lords and noble Baronesses have given. Now I know this might be classed as fanciful because it is not correct, but I ask the Minister to think of perpetrators as an organised perpetrators' grouping. I know they are not and there would be very little evidence for it, but there is a pretty consistent pattern, not only over some cases but over many years, as if they were such a group. If they were treated as an organised perpetrators' group by Parliament, the Home Office and law enforcement then by now we would be having strategic views, risk management and people's names on registers in the same way as with existing registers. We would really be toughening it up. I would take that as a starting point for the debate today, not a finishing point.

As I said originally, I do not disagree with anything I have heard today and I give my full support to these two amendments, both verbally and if they are pushed to a vote.

Lord Russell of Liverpool (CB): And so, my Lords, we come to tail-end Charlie. What is probably not obvious to those listening or watching today's proceedings who are not around the Palace of Westminster is that they have been taking place with the sound of helicopters circling almost ceaselessly. I think that is because a group of people who feel strongly about what we are discussing, some of whom may even have been on Clapham Common on Saturday evening, have decided to come to Parliament Square today while we are having this discussion, and I suspect while another

[Lord Russell of Liverpool]
place is beginning to talk about the policing Bill, to voice their concern and—in a respectful way, I am sure—are trying to demonstrate how strongly they feel about this issue.

What an irony that we have a female Home Secretary and a female head of the Metropolitan Police, and that it was a female assistant commissioner who, under huge pressure, took a decision on Saturday evening that with the benefit of hindsight she may possibly regret. The evidence around the country of demonstrations taking place where the police decided to be judicious and hold back is that they seem to have gone off without event, while the two that I have heard of—one in London and one in Brighton—where the police decided to take a different decision have ended badly. I hope lessons have been learned from that.

7.15 pm

In preparing for this debate, I looked back very carefully at the Minister's replies in Committee. I will not go through them in detail but, broadly, they say that there is a range of laws, forms of guidance, processes and technology systems, all of which have been carefully designed to try and produce particular results. However, when you look at those results, they are very mixed. I know from talking to people who are involved in this area that some of them would say that parts of this are working extraordinarily well. All I can say is that, as and when we come up with a new, all-singing, all-dancing strategy to deal with domestic abuse, part of it must be—as when a strategy is formulated and rolled out in any organisation—to tell the world what is going well, what is working, that you are doing more of that and improving it; not, as we do mostly with domestic abuse, listening to an unspeakable litany of the occasions when it clearly is not working.

I suspect that that does a disservice to the many people in the various organisations that are dealing with domestic abuse, which is probably one of the most difficult areas to deal with, and who are working their guts out. In some cases, they are probably achieving excellent results. However, I ask the Minister to reflect on why, if that is the case, we do not know about it. If we are doing some things well, why can we not find a way of talking about that, and communicating it in a way that is not triumphalist, or scoring political points, but in a way that is actually helping the people who it is designed to help?

Having been in business for many years, working with very large companies, going through all sorts of strategies, S-bends, U-bends, takeovers and all the rest of it, my normal reaction when somebody proposes a new strategy is to reach for my tin hat. If the Government are going to proceed with their ambition to have this wonderful, holistic, joined-up domestic abuse strategy, we have to learn from our failings in the present and our many failings in the past. If we do not, we are simply going to repeat them. As somebody once memorably said about the situation in Ireland:

"In Ireland there is no future—there is only the present and the past",

endlessly repeating itself. With domestic abuse, we run the risk of doing that unless we recognise what has not worked; unless we recognise that some of the promises that have been made, some of the semi-answers that are given, are not satisfactory.

The discipline that I always apply in a situation such as this is to imagine that the Gallery up there is filled entirely with victims and their families. I wonder what they think as we talk, pirouette, and demonstrate our rhetorical flourishes; as people are, occasionally, unable to resist making political digs. I wonder how they feel as they listen to us talking about incidents which have, in many cases, pulled their lives completely apart. It behoves us to think about them always when we are talking about these subjects. It is their graves that we are treading on, so we need to be very careful and mindful of that.

I would like to put on the record the experience of another woman who was killed, to do justice to her and to the many people who obsessively look into these cases. For them to have to live with what they do day in, day out, must be extraordinarily difficult. This is the story of Kerri McAuley—and this means she will now be remembered in *Hansard*.

Kerri was brutally murdered in Norwich by Joe Storey in January 2017, just over four years ago. She suffered 19 injuries to her head and face following an attack by the perpetrator, who then smeared her blood on his face and took a selfie, then left her there to die. He had previously violently attacked five former girlfriends, dating back to 2008, nine years before, and at the time he murdered Kerri, he had no fewer than—I stress—three restraining orders to prevent him abusing his former partners. Prior to that, Kerri had endured hours of being attacked and locked away and, in the last violent incident before she died, she managed to escape, wearing only her underwear, by jumping out of one of her windows. She called 999 and for 22 minutes she pleaded for help, telling the call handler about the previous assaults on her, which was the first time she had ever told it to anybody, saying that she was scared of further attacks and that she was afraid he might kill her. In July 2016, Storey—guess what?—received a restraining order for this prolonged and vicious attack, just like the other ones he had accumulated like a badge of honour with his previous assaults. Therefore, even with this additional restraining order, six months later, he murdered Kerri.

There can be no excuse for having a system that is trying to deal with domestic abuse which has been built on repeatedly over the last 20 years and which tolerates results like that. It is simply unacceptable, and we need to fix this. We need to do so for the victims, for their families but, most of all, we need to do it so that we can live with ourselves. I support both amendments and I hope the Minister will be able to give a convincing reply.

Lord Paddick (LD) [V]: My Lords, this debate has been filled with harrowing examples, including powerful personal testimony such as the moving account the noble Baroness, Lady Bertin, gave of her cousin.

In Committee, a similar amendment in the name of the noble Baroness, Lady Royall of Blaisdon, was introduced to make it a legal requirement that serial domestic abuse offenders or stalking perpetrators are registered on ViSOR, the violent and sex offender register, and that they be subject to supervision, monitoring

and management through existing Multi Agency Public Protection Arrangements, or MAPPA. In Committee, I suggested that existing legislation and codes of practice may already require dangerous serial domestic abuse and stalking perpetrators to be supervised, monitored and managed through MAPPA, and that the issue may be one of the police and other agencies not complying with existing legislation rather than a problem with the legislation itself. The Minister appeared to agree with me. However, clearly something needs to change, as the noble Baroness, Lady Royall of Blaisdon, so powerfully set out. Women are dying because serial offenders are slipping through the net and, if this part of Amendment 73 is not the answer, the Government need to explain very clearly what they are going to do.

My noble friend Lady Brinton's personal experience, so bravely and powerfully put, and the personal experience of the noble Baroness, Lady Grey-Thompson, should leave the House in no doubt that action is needed urgently. Unlike the amendment in Committee, this amendment includes a requirement to review the operation of its provisions and to lay a report before Parliament that includes a comprehensive prevention and perpetrator strategy for domestic abusers and stalkers. Amendment 81 in the name of my noble friend Lord Strasburger also requires the Government to lay before Parliament a comprehensive prevention and perpetrator strategy for domestic abuse, the case for which he has so clearly set out.

I will not repeat the arguments I made in Committee. Suffice it to say that we on these Benches support both of these amendments, and were the opinion of the House be tested, we would support them.

Lord Kennedy of Southwark (Lab Co-op): My Lords, Amendment 73, proposed by my noble friend Lady Royall of Blaisdon with my noble friend Lord Hunt of Kings Heath, the noble Baroness, Lady Brinton, and the noble Lord, Lord Russell of Liverpool, has my full support, as does Amendment 81, tabled and moved by the noble Lord, Lord Strasburger.

Like other noble Lords, I send my condolences to the family of Sarah Everard and of all the other women who have been murdered since Second Reading. As was pointed out, 30 women have been murdered since Second Reading, which is an absolutely horrific figure.

My noble friend Lady Royall made a powerful case and laid out a comprehensive framework to deal with the perpetrators of domestic abuse and stalkers. Her amendment would require there to be a report before Parliament within the next 12 months looking at the operation of the provisions as set out in the amendment. My noble friend was right when she said that it is time for men to step up and take ownership, and take responsibility for this issue. The cases she referred to are harrowing but, sadly, they are only the tip of the iceberg: horrific abuse and a catalogue of failure by the authorities to understand the risk that these women were at, often only understanding that risk when it was too late and they had been killed. As has been said, 30 women have died, murdered by their partner, between Second Reading and today's debate. That figure should be enough in itself for the Government to want to act. We have had a complete failure of practice and process, and we need to ensure that there is a proper, national framework to identify, assess and manage perpetrators. It is most important that people are not lost in the system. We need a comprehensive perpetrators strategy: nothing less will do.

The noble Baroness, Lady Brinton, in setting out the case for women who are murdered, demonstrated the need for that national solution and the failed system. I am very sorry to learn of the personal abuse the noble Baroness has suffered at the hands of a political opponent. Sadly, it means that she can speak with first-hand experience as a victim of appalling abuse and stalking. It seems to me, from what she told us, that the perpetrator was treated very leniently for the crimes that he committed. I was not aware of the murder of the cousin of the noble Baroness, Lady Bertin, and she is absolutely right that we have to match heartfelt words with actions. We have to break this horrific cycle, and that needs a proper multi-agency approach that leads to action. We need to ensure that we bring up better boys to become better men. That is what needs to happen here. That happens in the home, but if people in the home are seeing violence and abuse as part of their daily lives, are we surprised that when they become older, they behave in an equally appalling way and we get these dreadful, horrific crimes?

The noble Baroness, Lady Grey-Thompson, reminded the House of the abuse that women in public life have suffered, which, again, is totally unacceptable. One of my best friends—I will not mention her name—is a Member of the other place. We used to work together at the Labour Party. She was proud to be elected to Parliament to represent the constituency she lives in. She and her family suffered appalling abuse from a stalker, who found out where they lived and would turn up outside their front door, sent abusive emails and generally made their lives a living hell. In the end, my friend and her husband sold their home and moved to another part of the constituency, and the perpetrator went to prison for his crimes. In the new home, there are panic alarms, a special thing on the letter box and other security measures. This is no way to live, just because you want to represent your community and are good enough to stand for a party and get elected. It is appalling. I remember my friend telling me, when we had a coffee in Portcullis House, "Actually, Roy, I'm quite safe here. But I've left my husband and two kids under 16 at home, where this person knows we live. That is what really worries me while I am down in London during the week." It is awful. She is not the only person; there have been horrific cases of women of all parties facing horrific abuse, particularly in the House of Commons. That is outrageous, and we must stop that.

7.30 pm

I was talking to someone about the abusive emails that the noble Baroness, Lady Jones of Moulsecoomb, received last week. Again, it reminded me of the total failure of the social media companies, which have not dealt with abuse or vile, disgusting threats. I look forward to the day the Government bring forward their online harms Bill and we can finally make the platforms that host these vile messages responsible. I

[Lord Kennedy of Southwark]
suspect that when they are criminally responsible, things will change very quickly—and may that day come along.

The noble Lord, Lord Strasburger, rightly makes the point that domestic abuse is a hidden crime, committed over years, often leading to the death of a victim, and committed behind closed doors by the person who is supposed to care for, love and look after you. It is a horrific crime, and the more we talk about it, the more we can deal with it.

I agree with the comments from my noble friends Lord Hunt of Kings Heath and Lord Rooker and, like him, I agree with every comment made so far in this debate. The noble Lord, Lord Russel of Liverpool, drew attention to past failures and how we recognise those, learn the lessons and move on. Governments of all parties have made mistakes. This is not a party-political point. We have all got things wrong; we have all got things right. I deeply regret, though, the destruction of the Sure Start programme. Sure Start centres were the hubs that the noble Lord, Lord Farmer, often talks about when he debates here. Again, it is about ensuring that we have proper skills to address the problems and ensuring that things are better—that we bring up better boys and better men. That was very much an achievement of a much-loved and missed friend, Baroness Jowell. She gave that support to families who needed it.

I will leave my comments there. I am clear that if either amendment is moved to a vote, these Benches will support it.

Baroness Williams of Trafford (Con): My Lords, I join others in sending our thoughts and prayers to the family of Sarah Everard. We do not know the history of her murderer, but we do know that she is just another murdered woman. As the noble Baroness, Lady Brinton, said, there have been 30 such women since Second Reading. I heard the story of the noble Baroness, Lady Brinton, as a horror story; it is something you would never wish on anybody. The noble Baroness, Lady Royall, paid tribute to Jane Clough and her wonderful parents. I have met Jane Clough's father, and I pay tribute to her parents, who have campaigned so tirelessly so that what happened to their daughter will not happen to somebody else. The noble Lord, Lord Kennedy, mentioned some of the horrendous things parliamentarians have to put up with. I am so sorry for the noble Baroness, Lady Jones of Moulsecoomb, for the abuse she has suffered in the last week or so, and I am sure I speak on behalf of every other noble Lord in the House. And the story of my noble friend Lady Bertin was awfully sad and horrific.

To pick up the point made by the noble Lord, Lord Russell of Liverpool, this set of amendments is not about political digs. I totally agree with him. We all seek the same end, so it might seem odd that the words I am going to say disagree with noble Lords' amendments. The noble Baroness, Lady Royall, and I have campaigned and worked together for years, trying to fix the gaps that we find in the provision.

Amendment 73 seeks to amend the Criminal Justice Act 2003, so that individuals assessed as high risk and high harm, as well as those convicted of more than one domestic abuse or stalking offence, should automatically be subject to management under Multi Agency Public Protection Arrangements, commonly referred to as MAPPA. Management under MAPPA may result in these individuals being recorded on VISOR, which is the dangerous persons database. The amendment would also place a duty on the Government to review these changes to the Criminal Justice Act and issue a report 12 months after Royal Assent. It specifies that the report would need to include a comprehensive prevention and perpetrator strategy for domestic abusers and stalkers. This links to Amendment 81, which also calls on the Secretary of State to issue a perpetrator strategy.

Noble Lords have spoken passionately about this issue and it is impossible not to be moved. I am simply horrified by some of the stories raised, not only today but in Committee. I indicated then and say again that I totally agree with the intention behind these amendments. As the noble Lord, Lord Russell, said, so much works, so why are there gaps? We want to make sure that there are no gaps and that we have the right systems in place to enable the police and partner agencies to accurately identify the risks posed by high-harm, repeat and serial perpetrators, and to act accordingly to protect victims.

We recognise that there is more that can be done to fill the gaps and ensure that the system works as intended, but we do not think that Amendment 73 addresses or resolves the underlying issue of improving risk assessment and case management. We fear, therefore, that it will not achieve the outcomes that it is intended to achieve.

In Committee, the noble Lord, Lord Paddick, said—I will paraphrase—that serial and high-harm domestic abuse and stalking perpetrators can be managed under the current MAPPA legislation, but that it is not always happening in practice. My noble friend Lady Bertin echoed this and we agree, which is why, instead of amending the current legislation to add an additional category, we think there is more value in making better use of the existing MAPPA framework and related police systems.

My noble friend Lady McIntosh of Pickering talked about upskilling. There is a range of things, of which upskilling is one, which will drive an improvement in the system, including a better focus on the outcomes that we seek. We have already taken steps to improve MAPPA and related systems. Last spring, Her Majesty's Prison and Probation Service published the *Domestic Abuse Policy Framework*, which sets out arrangements for working with people whose convictions or behaviours include domestic abuse. The framework mandates an adherence to the referral pathways for domestic abuse perpetrators and ensures that the required actions for these cases are fully laid out. It focuses on the need for an investigative approach, sets clear expectations about information exchange and the use of MAPPA, and draws together expected practice into a clear framework. This will significantly strengthen the consistency of our approach. It is right that we put our focus on embedding this framework, which will have a real operational impact to ensure that it is working to better safeguard victims and those at risk.

We are also introducing measures in the Police, Crime, Sentencing and Courts Bill, which was introduced in the House of Commons on 9 March. These measures will clarify the information-sharing powers of those agencies subject to the duty to co-operate under MAPPA. It will also explicitly extend these information-sharing powers to those agencies or individuals who can contribute to the assessment and management of risk—for example, GPs.

As my noble friend Lady Bertin says, we know that there is still more we can do to address the areas of concern that this amendment intends to resolve. I would like to outline the programme of activity that we will undertake to best achieve this. First, the Ministry of Justice will revisit and refresh all relevant chapters of MAPPA statutory guidance to include the sections on domestic abuse. This will ensure that all agencies involved take steps to identify offenders who are domestic abuse perpetrators whose risk requires active multi-agency management.

Secondly, we will introduce a thresholding document for local MAPPA strategic management boards to improve the consistency of assessments of MAPPA levels to ensure that those requiring greater oversight are correctly identified. We will ensure that there is a reference to domestic abuse perpetrators to assist relevant agencies in making decisions on the level of MAPPA management needed for individual cases.

Thirdly, HMPPS will issue a policy framework setting out clear expectations of the management of all cases at MAPPA level 1 by the National Probation Service, including domestic abuse perpetrators. This will further help to improve the quality of information sharing, the consistency and regularity of reviews, and the identification of cases where additional risk management activity is required.

Finally, we will improve the MAPPA sharing database —known as ViSOR—used to manage offenders, including through exploring alternative digital offender management systems, building on the success of the existing system in bringing agencies together to share information, and strengthening risk assessment, management and mitigation. To answer the point of my noble friend Lady McIntosh of Pickering, as I said before, the Police, Crime, Sentencing and Courts Bill makes provision for that better data sharing under MAPPA.

There are provisions in the Bill which will also help to improve the management of risk posed by domestic abuse perpetrators. The new domestic abuse protection orders—or DAPOs—will provide an additional tool for managing the risk posed by perpetrators by enabling courts to impose a range of conditions and positive requirements. DAPOs will also require perpetrators subject to an order to notify the police of their name and address and any changes to this information. This will help the police to monitor the perpetrator's whereabouts and the risk that they pose to the victim.

Stalking protection orders, which were introduced last year—I am glad that my noble friend is in the Chamber—can also impose positive requirement conditions on perpetrators. These orders enable early police intervention, pre-conviction, to address stalking behaviours before they become deep-rooted or escalate.

Ultimately, adding an additional MAPPA category into legislation specifically for domestic abuse offenders will not improve the practical issues it is truly seeking to resolve—and if it did, I would be fighting for it to happen. In fact, if we were to use the definition of domestic abuse offender as outlined in the amendment, we would make a large group of offenders not defined by specific offences automatically eligible for MAPPA. This would risk creating a level of complexity not reflected in the current legislation that will distract resources and could overwhelm the current system.

7.45 pm

The definition of "specified stalking offence" in the amendment is given as an offence contrary to Section 2A or Section 4A of the Protection from Harassment Act 1997. The Section 4A stalking offence, namely

"Stalking involving fear of violence, alarm or distress"

can attract a sentence of up to 10 years in custody, and I thank the noble Baroness, Lady Royall, for working with me on this. Where someone is sentenced to 12 months or more, they are already automatically subject to management under MAPPA. Crimes charged under Section 2A would be likely to involve episodes of stalking which do not involve fear of violence or serious alarm or distress and could be referred to MAPPA on a discretionary basis. We think this is the right balance to ensure that we are capturing the most harmful offenders. I am very grateful to the noble Baroness, Lady Royall, for bringing attention to this issue, but we think the package of actions that I have outlined today will be the most straightforward approach to achieving the intended outcomes and, most importantly, will make the biggest difference at an operational level.

I now turn to the part of Amendment 73 and to Amendment 81 that would place a duty on the Government to prepare a comprehensive prevention and perpetrator strategy for domestic abusers and stalkers. The Government are committed to holding perpetrators to account for their actions. As I mentioned in Committee, later this year the Government will bring forward a new, ambitious strategy to tackle the abhorrent crime of domestic abuse. Within this strategy, we will outline our plans and ambitions to prevent offending as well as to protect victims and ensure that they have the support they need. Tackling perpetrators and preventing offending will form a key pillar of the strategy, as my noble friend Lady Sanderson said.

The noble Lord, Lord Strasburger, asked for reassurance about what will be in the strategy with regard to perpetrators and prevention. He will appreciate that we are still in the early stages of our thinking, so I cannot pre-empt what the content of the strategy will look like at this stage, but I can commit that we will take all his points into consideration during its development. I know the noble Lord is particularly concerned about prevention, so I would like to provide reassurance that we recognise that to address a problem properly, we must tackle the root causes as well as the symptoms. I can also confirm that we will be consulting specialist organisations, including the Drive Partnership, other government departments and partner agencies during the development of the strategy.

[Baroness Williams of Trafford]

The noble Lord's amendment provides for a 12-month timetable for the publication of the strategy. While we aim to improve on that timetable, I hope noble Lords will recognise that we cannot have all the answers now. On the principle of a separate strategy, while we agree with the need to take a strategic approach to tackling perpetrators, we think it is right to do this in a holistic domestic abuse strategy and not in a standalone perpetrator strategy, to echo my noble friend Lady Sanderson again.

We continue to build up our evidence base to inform this work. As part of the spring Budget last year, the Chancellor allocated £10 million to fund innovative approaches to tackling perpetrators and preventing domestic abuse. This included more than £7 million for police and crime commissioners to support the adoption of a range of domestic abuse perpetrator-focused programmes in their area. This funding included a requirement for PCCs to conduct an evaluation of their project to strengthen the evidence base of what works to prevent reoffending. I am very pleased to confirm that we have now also provided more than £500,000 to 11 research projects to help improve our understanding of who carries out domestic abuse, how and why it occurs and how to prevent it.

I am delighted that in his Budget earlier this month, the Chancellor announced a further £15 million for the upcoming financial year to fund work on domestic abuse perpetrators. In addition to this, as part of the package to tackle serious violent crime, last week the Home Secretary announced an additional £10 million towards expanding domestic abuse perpetrator programmes. This more than doubles the total funding for tackling domestic abuse perpetrators and is an unprecedented amount of money in this area. This demonstrates the Government's ongoing commitment to this agenda.

I apologise for detaining noble Lords for so long. I conclude by saying that we are absolutely committed to ensuring that MAPPA works as intended, but do not feel this amendment achieves that aim. I hope noble Lords will be reassured by the extensive programme of work under way that will help to address the concerns about the current MAPPA arrangements. The recent announcement by the Chancellor demonstrates the Government's commitment to tackling perpetrators. I hope the noble Baroness will feel able to withdraw her amendment.

Baroness Royall of Blaisdon (Lab) [V]: My Lords, what an extraordinary debate—powerful, passionate, distressing and harrowing in many ways. I am extremely grateful to all noble Lords who have participated, especially the noble Baronesses, Lady Brinton, Lady Bertin and Lady Grey-Thompson. It is extremely painful to relive the sort of experiences that they have relived today, but I hope their courage in putting their experiences on the record will help others.

The noble Lord, Lord Russell, was right when he said we need to fix the system for victims and their families, and for us to live at ease with ourselves as a society. Today, having named so many victims and cited the cases, we must remember the families of those victims and the great pain that such debates must cause them. Equally, I hope the fact that we are debating ways of improving systems will ensure that other young women, older women or girls will not be subjected to the same abuse, the same stalking and the same murders as their loved ones had to experience.

I am extremely grateful to the Minister for her comments, and she is right: we all seek the same end. But we have always had a slight difference in how to get to that end. If she does not mind, I would like to ask her something before she sits down, as it were, although I know she has sat down. I quoted some words from the *Sunday Times* suggesting that the Home Secretary and the Justice Secretary were thinking of a register for stalkers and perpetrators of domestic abuse. I wonder whether she can give us any further information about the comments made to the *Sunday Times*.

Baroness Williams of Trafford (Con): Like the noble Baroness, I saw that article. I have not had a chance to corroborate with the Home Secretary and my right honourable friend Robert Buckland the contents of that article. I can get some more information for the noble Baroness, because it would be useful to have their thinking on it.

Baroness Royall of Blaisdon (Lab) [V]: My Lords, apparently in answer to a question from my right honourable friend Yvette Cooper, the Home Secretary said, "I will be very candid: I will look at all measures". That was in response to a question about this very amendment.

The noble Baroness mentioned the fact that more guidance is coming and that there are more policy frameworks and strategies. All that is very good, but unless people have to do what we need them to, and unless they can be accountable to the law in some way, these things will not happen. We know that, for the last 20 or 30 years, there has been a plethora of guidance et cetera, but, still, people are falling through the cracks. This is why it is extremely important to have something in the Bill to put these things in statute. As my noble friend Lord Hunt said, police forces are awash with guidance—people do not need guidance; they need to know exactly what they have to do, and we have to hold them to account and ensure that they do it.

As the noble Baroness pointed out, my amendment might not be perfect—I have no doubt that it is not. However, I would like to test the opinion of the House, so that I can perhaps enter into some discussions with the Government, especially as they are now—from what we know from the newspapers and what the Home Secretary said in the House of Commons today—looking at a register. I suggest that perhaps the amendment before us provides the basis of such a register and of the way in which the Government might move forward.

Therefore, I would like to test the opinion of the House, so that we can, I hope, enter some negotiations. It will be up to our colleagues on all sides of the House of Commons to take this forward. I am very grateful to noble Lords who have supported this amendment in the Chamber today, and I have had messages from many other Peers, on all sides of the House, who are very supportive of what we are doing.

I say to the noble Lord, Lord Strasburger, that I think his amendment is excellent. I do not know if he will test the opinion of the House, but I am delighted to have been able to participate in the debate on his amendment. With that, I wish to test the opinion of the House.

7.56 pm

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8.13 pm

Amendment 74 not moved.

Consideration on Report adjourned.

Royal Assent

8.14 pm

The following Acts were given Royal Assent:

Supply and Appropriation (Anticipation and Adjustments) Act,

Telecommunications Infrastructure (Leasehold Property) Act,

Non-Domestic Rating (Lists) Act,

Contingencies Fund Act.

8.14 pm

Sitting suspended.

Domestic Abuse Bill

Report (3rd Day) (Continued)

8.30 pm

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, we now come to the group consisting of Amendment 75. Anyone wishing to press this amendment to a Division must make that clear in the debate.

Amendment 75

Moved by ***Baroness Burt of Solihull***

75: After Clause 72, insert the following new Clause—

"Code of practice: employer's duty of care

(1) In this section—

(a) "worker" means an individual who has entered into or works under a contract of employment or any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; and

(b) "employer" means the person to whom the worker undertakes to perform the work or services in question.

(2) The Secretary of State must issue a code of practice (a "code") containing provision designed to ensure that persons affected by domestic abuse who are workers receive appropriate care and support from their employer in relation to their work.

(3) A code may include provision requiring an employer to make reasonable adjustments for the purpose of ensuring that persons affected by domestic abuse are not, by reason of being so affected, placed at a substantial disadvantage in relation to their work in comparison with persons who are not so affected.

(4) The Secretary of State may revoke or amend a code.

(5) Before issuing, revoking or amending a code the Secretary of State must—

(a) issue proposals, and

(b) consult the Commissioner and such other persons as the Secretary of State thinks appropriate.

(6) Failure to comply with a provision of a code does not of itself make a person liable to civil or criminal proceedings; but a code shall be—

(a) admissible in evidence in criminal or civil proceedings, and

(b) taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant, including (in particular) any case in which a question arises as to whether an employer is in breach of a duty of care owed to a worker."

Member's explanatory statement

This amendment would require the Secretary of State to issue a code of practice containing provision designed to ensure that persons affected by domestic abuse who are workers receive appropriate care and support from their employer.

Baroness Burt of Solihull (LD): My Lords, I start by thanking the noble Baronesses, Lady Meacher and Lady Bennett of Manor Castle, for their support of this amendment. Time is getting on and we have a lot to go through tonight, so I promise I will not detain the House by repeating the arguments I used in Committee.

I am very encouraged by the letter I received from Minister Scully outlining all the steps that the Government have taken and are taking to make employers aware of what they can do to support victims and signpost them towards help. I also commend the Government on their recent review, *Workplace Support for Victims of Domestic Abuse*. As we know, the workplace is one of the few places where the victim is usually separate from the abuser. If the workplace culture is positive and the employer knows how to help by signposting the victim, this can make all the difference. Sadly, the review outlined a mostly different picture: a lack of awareness of the warning signs of abuse; stigma around talking about it; and a lack of knowledge of what to do to help.

In his letter to me, Minister Scully said:

"We will now work together with employers, representatives of victims and trade unions to continue to build awareness and understanding of domestic abuse and drive good practice across the board."

The Chartered Institute of Personnel and Development and the Equalities and Human Rights Commission have produced an oven-ready code of practice. It is only one small step to put implementation into government guidelines on duty of care. What will these guidelines consist of? Will they be incorporated into the other duties of care required of employers? If not, what will it look like?

Regrettably, this knowledge will not filter down to employers by osmosis. We need one small step, such as a government extension of the duty of care to extend to larger organisations incorporating a policy on employee domestic abuse victims into their existing employee policies. That in itself would send a powerful signal not just to victims but to abusers that this behaviour is not okay and that help is at hand. Now, when employees are coming back to work, is an ideal time to welcome them with a policy that confirms their self-worth and the fact that they are regarded and cared for.

[Baroness Burt of Solihull]

The Government have made great strides already. The establishment of a code or duty is just half a step more. The result is a big benefit for all concerned: employees who feel able to bring their whole selves to work; other employees who also feel valued and supported; and, not least, employers, who reap the rewards in terms of enhanced loyalty and productivity. It is a win-win, and the only cost to the employer is a little thought. I beg to move.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I am very glad to speak in this debate. I thank the noble Baroness, Lady Burt, for moving the amendment. I was very pleased that the Government confirmed in Committee that domestic abuse protection orders would cover the workplace as well as the home. This is a very important step in ensuring that victims remain protected at work, and it is a first step to ensuring that domestic abuse is seen as a workplace and trade union issue. Home and work cannot be neatly separated, and this has never been truer than during the Covid pandemic.

I declare my interest as a member of UNISON, and I was particularly pleased that its campaign was so successful. I warmly congratulate its new general secretary, Christina McAnea.

There is no room for complacency, as the noble Baroness said. I am certainly convinced of the need to ensure that victims of domestic abuse are protected at work and that their employers do everything they can to support them. I have already said that home and work issues cannot always be neatly separated. Abusive and violent behaviour does not always take place in the home; it can frequently cross into the workplace, where victims experience stalking, threats, harassment and even worse. Equally, work can be a lifeline to independence and survival for victims of domestic abuse, as they are ordinarily able to leave their homes to go elsewhere and can maintain a level of income independent from the perpetrator.

All victims should feel safe in the knowledge that they can take action to put their lives back on track with their employment secure, and that they will be protected while they are at work. The Government have a responsibility to ensure that victims of domestic abuse are protected at work and that their employers do everything they can to support them.

We know from a TUC survey from 2015 that one in 10 of those who experienced domestic violence reported that the violence continued in the workplace. Over 90% of respondents to the survey who had experienced domestic violence reported that it had caused conflict and tension with co-workers, and a quarter of respondents reported that their co-workers were harmed or threatened.

This is where discussion about the code of practice comes in. The requirement that the code should be

"designed to ensure that persons affected by domestic abuse who are workers receive appropriate care and support"

is certainly an interesting suggestion. From listening to the noble Baroness, Lady Burt, I can certainly see the attractions of a code of practice. As she said, she has had discussions with relevant organisations on it.

However, I put to the noble Baroness the risk that, in any criminal or civil proceedings, compliance with the code by an employer may become the issue, rather than the domestic abuse carried out by a perpetrator. In the experience of UNISON, with which I have discussed the amendment, the introduction of a policy would seem to be much more effective in encouraging victims to volunteer that they are affected by domestic abuse, enabling referral to appropriate support agencies. In other words, while employers must ensure that they are meeting their duty of care, this might be seen as a blunt instrument. But I recognise that it is being moved with the best of intents and, in the work that goes forward, I am sure that it will be important to consider a code alongside the other measures that are clearly important to take.

The Earl of Lytton (CB) [V]: My Lords, as someone involved in a small business as an employee, and having run a number of small businesses over many years, I can certainly applaud the general sentiment behind this amendment. However, its scope would potentially enmesh a category of small business that could be regarded as disproportionately wide. We should bear in mind that many are microbusinesses: they do not have HR departments and may well operate, as my employer does, in a very dispersed and diffuse mechanism. Setting in place a code and signposting this issue is, however, certainly desirable.

Work environments are not always on fixed premises—they may be in all sorts of places. In construction, certainly, they can be literally anywhere and in all sorts of circumstances. All sorts of people may be involved in those setups as an employer or employee, within the definition proposed here.

I want to refer to the other examples that we have for ensuring better workplace consciousness. We had this on health and safety: ultimately, that was backed by statutory provisions but it had a massive effect on the culture of safe working in construction, in particular—possibly not so much on farming, where children were particularly at risk. More recently, we have had what might be described as a much more voluntary process on mental health. Much has been said about this over the last two or three years to do with employees looking out for what might be troubling their colleagues and just asking them: "Are you all right?" So often it is that which is brought to the attention of somebody who matters and can achieve an effect, rather than necessarily the employer, who may be somewhere else and not in direct contact.

This is a matter of best practice. It goes along with general health and bereavement, and that sort of thing. I am less sure that making it prescriptive is the right way forward. As I said, I applaud the principle and general sentiment behind the amendment. If the Minister felt that she could concede to the point of at least producing some detailed statutory or other guidance that could be followed, it would be a material step forward.

Baroness Hamwee (LD) [V]: My Lords, I want to make one brief point. A code of practice or something which is a guide to employers—and is obviously to be shared with people in the workplace—would and should be welcome to employers. I say that in the context of

increasing awareness of domestic abuse, that it happens so often and what it comprises. There must be employers who are now and have been wondering what they should be doing. Assistance to employers is a part of the range of responses that we are becoming so conscious of needing to be in place.

8.45 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, it is a pleasure to follow the noble Baroness, Lady Hamwee, and to build on her points. In the hugely powerful debate on the previous amendment, the noble Baroness, Lady Royall of Blaisdon, said that the system has to change. That is what this amendment is all about. Employers are very much part of the system that has to help the victims and potential victims of domestic abuse. I rise briefly to offer the support of the Green group for the amendment and I thank the noble Baroness, Lady Burt of Solihull, for tabling it. I am pleased to join the noble Baroness, Lady Meacher, in supporting it because that expands the cross-party nature of its backing. I thank in particular Hestia, the London-based domestic abuse service, for its useful briefing, and the charity Surviving Economic Abuse.

As I said in Committee, the statutory need for paid leave to deal with the impact of domestic abuse is urgently needed and a code of practice for employers, including a provision for reasonable adjustments, would be a good start. An economic case can easily be made for allowing employees to sort out their issues to end any drag on their productivity, but there is also the humanitarian case and indeed simple responsibility and duty of care, as well as the basic principles of health and safety in the workplace. For everyone to be safe at work, both the survivors of domestic abuse and those around them need to know that the framework is in place. A 2017 study found that 86% of employers agreed that they had a duty of care to support employees experiencing domestic abuse.

The will is there but the knowledge can often be lacking. I have been thinking back over my professional life as a journalist and a manager of journalists. That management started in my mid-20s when I frequently had a pastoral duty of care to staff, which, in retrospect, as a young and untrained manager, I was not well equipped to handle. I have never knowingly had a staff member who was the subject of domestic abuse, but I had a much older male boss, who I suspect was rather at a loss, who asked me to do what I could to support a colleague, which I did, although I fear not terribly well. That was a long time ago and there was certainly no guidance then, although there should be now: a binding code of practice with the resources to back it up, along with a step-by-step guide to action, would be a great relief to the many businesses and managers facing the complicated pressures that they are today.

The noble Earl, Lord Lytton, expressed concern about the extra pressure on very small businesses. I think that they would be among those most relieved to have a code to follow—a map that should, I suggest, recognise the different capacities of different sizes of business, and provide appropriate support routes where businesses do not have the resources themselves. The vast majority of businesses want to do the right thing, but they need government support, help and guidance to do so. It also makes economic sense for individual businesses and for the whole community to do so.

A broader point can be made here, not only in terms of this amendment but on something that has arisen across our debates, but perhaps it has not often been set out explicitly. Domestic abuse is a problem for the whole community, not only for victims, law enforcement and social workers; every part of the community needs to be involved in tackling it, and that includes employers in particular.

Baroness Meacher (CB) [V]: My Lords, I support Amendment 75 tabled by the noble Baroness, Lady Burt, to which I have added my name. Surely one of the attractions of this amendment for the Government is that it will not cost any taxpayer money, but it would, as the noble Baroness, Lady Burt, has indicated, make a big difference to the lives of an awful lot of people and, indeed, improve their productivity at work.

Many employers are already extending their duty of care responsibilities to employees who are the victims of domestic abuse. The aim of the amendment is to extend this good practice to all employers through the use of a code of practice. There are strong reasons for the Government to accept this amendment. According to research carried out by the Home Office in 2016-17, police handling of domestic abuse in England and Wales cost £1.3 billion—10.2% of the policing budget. The same research showed that the lost output and reduced productivity resulting from domestic abuse cost the country £14 billion, although presumably a lot of that will have been borne by employers in lost output. It is therefore not surprising that BEIS has made it clear in a recent report that it supports employers acting on domestic abuse. The department pointed to three challenges, including the need to raise employer awareness and to spot the signs of abuse. What better way to do that than with a code of practice for employers issued by the Government? The BEIS report committed to establishing a working group made up of the Government, employers, representatives of domestic abuse victims, and trade unions to convene regularly to find practical solutions, drive culture change and establish best practice. Of course, such a working group could usefully contribute to a code of practice.

As has been widely publicised, Covid has greatly exacerbated the problem. Calls to the Refuge national domestic abuse helpline have increased by 66% and visits to the website increased by an extraordinary 957% in the two weeks prior to 27 May 2020. These are extraordinary figures, and this is therefore a peculiarly appropriate moment for the Government to support this proposal. We know that domestic abuse remains shrouded in shame and secrecy, so that too often victims do not seek the help that they need. As one victim, a police officer, said: "There is no way that I would have even framed what I was going through as abuse. It had just gradually become my normal. The chances of me reaching out for help or support would be zero." Hence the importance of employers taking the initiative to make it clear that they understand the issues and are there to provide support in relation to work.

[Baroness Meacher]

Thanks to the tireless efforts on this issue of Elizabeth Filkin, chair of the Employers' Initiative on Domestic Abuse, and her colleagues, many well-known employers are already offering support to employees who are domestic abuse victims. I quote from a report by Elizabeth Filkin, Theresa May and others, to illustrate the examples of employer support which could and should be followed by others, and which would be stimulated by a code of practice as proposed here by the noble Baroness, Lady Burt. The report says that

"Lloyds Banking Group has informed staff that if they need to leave home, it will arrange hotel accommodation and help them move",

which is pretty impressive, and

"Chelsea Football Club are supporting Refuge. Boots, Morrisons and pharmacies are providing safe spaces in their shops for customers facing domestic abuse to gain access to domestic abuse services. … Thames Valley Police created a Vulnerability Task Force during lockdown which focussed on historic victims of domestic abuse who may have been unable to report due to COVID-19 restrictions. From the beginning of lockdown to 5 June they had over 1500 contacts with victims … The feedback from these contacts has been extremely positive".

Following on from the contribution by the noble Earl, Lord Lytton, clearly the code would need to take account of the very different circumstances of many small businesses. One government department, BEIS, is already committed to the employer domestic abuse agenda represented by this amendment. I hope that the Minister can assure the House today that the Government accept the proposal for a code of practice on this issue. I look forward to the Minister's response.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I am delighted to support Amendment 75, tabled by the noble Baroness, Lady Burt of Solihull. As she explained, it will require the Secretary of State to issue a code of practice containing provisions designed to ensure that workers affected by domestic abuse have appropriate care and support from their employer.

We had a good debate on this issue in Committee. We are all aware that we spend a lot of time at work, so a victim of abuse can spend a lot of time with their work colleagues. This code will set out the reasonable steps that an employer should be taking to support their employees, and is very welcome. Like the noble Baroness, Lady Bennett of Manor Castle, I have been a manager in the past, and I certainly had staff who had problems and issues and I have tried to be supportive. I do not believe that anybody had domestic abuse issues, but there were certainly other problems. I hope that as a manager I took the right actions to support work colleagues and get them over their problems. Having a code provides, for the employer, staff and managers, guidance on what reasonable adjustments can be made. That is really important.

We all know what goes on with abusers: they seek to disrupt and cause chaos in the victim's life, drive them out of work and make them economically dependent so that they are even more under the abuser's control—and, of course, abuse is all about control. This code is important; it would be a really good tool for employers. I hope the Minister will be able to get this right and put it on a statutory footing. The overwhelming majority of employers want to do the right thing; the noble Baroness, Lady Meacher, listed a number of organisations which are clearly doing just that—but we should not assume that everyone knows the right thing to do. I hope we can support this. I look forward to the Minister's response.

Lord Parkinson of Whitley Bay (Con): My Lords, I am grateful to the noble Baroness, Lady Burt of Solihull, for again raising the important issue of support in the workplace for the victims and survivors of domestic abuse, and to all noble Lords who have spoken in the debate again this evening. As the noble Baroness said in Committee, the workplace can be an important safe haven for victims, and the Government are clear that domestic abuse is everyone's business. We know from our recent review just how important the role of employers can be, and that guidance is an important and useful tool. As the noble Baroness, Lady Bennett of Manor Castle, and the noble Lord, Lord Kennedy of Southwark, said, employers and managers want to know how they can best help in this area. That is why we are including information for employers in the statutory guidance associated with the Bill.

The guidance that we have published in draft form refers to the exemplary toolkit provided by Public Health England, Business in the Community and the Employers' Initiative on Domestic Abuse, which will improve the support available for employers and their employees. We have also welcomed and promoted the excellent guidance provided by the Equality and Human Rights Commission and the Chartered Institute of Personnel and Development.

The power to issue guidance under Clause 73 is wide-ranging; it would enable guidance to be issued on any matter relating to domestic abuse. Accordingly, we do not believe that it is necessary to include in the Bill a separate, specific provision relating to guidance for employers. Moreover, we have committed to producing guidance and tools for employers which will enable more victims to come forward and ask for help in the workplace. Amendment 75 recognises the importance of the consultation process in developing guidance and sees a role for the domestic abuse commissioner. As we set out in a report earlier this year, we will work with employers, trade unions and representatives of victims and survivors.

We are grateful for the support provided by the designate commissioner for the BEIS review last year and we want to continue to make use of her expertise as we move forward in this important area. This approach will help to design effective guidance and to reach the maximum number of employers. It is important that we continue to bring employers with us, and work together to harness their full potential to tackle domestic abuse. It is also important that guidance can be responsive to changing circumstances and evolve with best practice and the examples of employers in different areas.

However, guidance is not the only tool to engage employers in relation to this issue. There have been some significant achievements already. Last year, we partnered with the Employers' Initiative on Domestic Abuse to raise awareness and provide guidance to

employers on domestic abuse in lockdown. We continue strongly to encourage all employers to join the Employers' Initiative, which I believe has seen a remarkable growth in its membership. This shows just how interested employers are in this important issue. The noble Baroness, Lady Meacher, mentioned a couple of specific employers; I was pleased to mention some other examples in Committee.

The Government have also implemented the Ask for ANI scheme in thousands of pharmacies. Most recently, the Department for Work and Pensions, together with the Sharan Project, has launched the Employers Domestic Abuse Covenant. By signing up to this covenant, businesses pledge to raise awareness and identify opportunities to help women affected by domestic abuse with access to work and skills. I hope and believe this demonstrates that the whole Government have a clear course of action and a strong commitment to working in partnership with employers and the specialist sector to support victims in the workplace.

In summary, we wholeheartedly agree with the noble Baroness on the important role that employers have to play in supporting victims of domestic abuse. I hope that she will recognise the work that we have set in train to build on the important work of the Employers' Initiative and others and that, on that basis, she will be content to withdraw her amendment.

9 pm

Baroness Burt of Solihull (LD): My Lords, I am very grateful to all noble Lords who have spoken this evening. Their knowledge always delights and surprises me, and we have heard knowledgeable contributions tonight from different perspectives.

I thought the contribution of the noble Lord, Lord Hunt, was very perceptive; he said that you cannot separate home from work. One of the things on which I probably bore for England is the fact that work is so important—you cannot just be a different person when you go to work; you have to bring your whole self.

We learned from the noble Earl, Lord Lytton, about the experience of small businesses. He expressed one or two concerns. I do not think the code was intended for implementation straightaway, certainly for small businesses—larger businesses will have to show the way.

My noble friend Lady Hamwee talked about how the code of practitioners would be welcome to employers; it is a help, not an effort to dictate to them. That theme was echoed by the noble Baroness, Lady Bennett; employers would certainly reach out for a guide, because of the lack of knowledge within companies.

I loved the comment of the noble Baroness, Lady Meacher, that it costs nothing to the Government—it also costs very little to employers—who reap the reward many times over in the savings and in terms of misery to them and to the country. Figures of £1.3 billion to the police and £14 billion to the country were given. There are also examples of what companies are doing already, which demonstrates the willingness and thirst to embrace that code of practice and to incorporate that duty of care into the other duties of care that employers have.

The noble Lord, Lord Kennedy, made a number of very supportive comments, for which I am grateful.

In conclusion, I want the Government to accept the proposal for a code of practice. It does not have to be in this Bill; I am persuaded of that because of the progress they are making. Taking all that into consideration and having raised the issue, I am hopeful that this will spur on the Government, the trade unions and other organisations to start to look at the practicalities of how a code would move things forward and all the different things they can do to embrace and understand how employers can help. With that, I beg leave to withdraw the amendment.

Amendment 75 withdrawn.

Amendment 76 not moved.

The Deputy Speaker (Baroness Garden of Frognal) (LD): We now come to the group consisting of Amendment 77. Anyone wishing to press this amendment to a Division must make that clear in debate.

Amendment 77

Moved by ***Lord Ramsbotham***

77: After Clause 72, insert the following new Clause—

"Screening for acquired brain injury in domestic abuse cases

(1) A woman who has been the subject of domestic abuse, including female prisoners and those awarded community sentences under probation supervision, must, with her consent, be screened for traumatic brain injury, and other forms of acquired brain injury, including concussion.

(2) For the purposes of this section, a woman has been the subject of domestic abuse if—

(a) she is the person for whose protection a domestic abuse protection notice or a domestic abuse protection order has been issued, or

(b) she is the person against whom it has been alleged that domestic abuse has been perpetrated when the accused is charged with an offence within the meaning of section 1 of this Act.

(3) The purpose of screening under subsection (1) is to assist in the determination of whether a woman has been the subject of domestic abuse.

(4) If screening under subsection (1) shows that there is an acquired brain injury—

(a) an assessment must be made of whether such an injury has been acquired as a result of domestic abuse, and

(b) the woman must be given appropriate rehabilitation treatment and advice."

Member's explanatory statement

This amendment seeks to improve the state's understanding of the prevalence, causality and impact of brain injuries sustained during incidents of domestic abuse. It seeks to ensure that this is done quickly and thoroughly in order to start rehabilitative treatment.

Lord Ramsbotham (CB) [V]: Amendment 77, in my name and that of my noble friend Lady Finlay of Llandaff, is an amalgam of the two amendments I tabled in Committee. It is also an amalgam of the amendments tabled in the other place by Chris Bryant MP, chairman of the All-Party Parliamentary Group on

[Lord Ramsbotham]
Acquired Brain Injury, in which I should declare an interest as a vice-chairman. I should also declare an interest as chairman of the Criminal Justice and Acquired Brain Injury Interest Group, which consists of a number of practitioners in the field and officials from the Department of Health and the Ministry of Justice.

In Committee, I outlined just why it was so important that all victims of domestic abuse should be screened and assessed for any acquired brain injury as quickly as possible after the event, and was very happy that the draft guidance to be issued by the Home Office to the police contains just such an instruction. I am keen that such an instruction should also be issued to the Prison and Probation Service, I hope statutorily, based on evidence produced by one of the members of the interest group the Disabilities Trust at HMP Drake Hall, a women's prison in Staffordshire.

After Committee, I wrote to Ministers appealing to them to adopt my amendment as a government one, and I am most grateful to the noble Lord, Lord Parkinson of Whitley Bay, for seeing me to discuss that. I am still hopeful and will not decide whether to divide the House until I have heard what he says in response.

Noble Lords often raise matters that they think should be in legislation during the detailed scrutiny that all Bills receive in this House, which Bill teams almost invariably brief their Ministers to turn down, but there is often method behind the apparent madness of the mover of a particular amendment, because officials simply cannot be expected to know as much detail as professionals in the field, and their successors may one day be grateful that they included a particular reminder or nuance.

I admit that I had not realised the importance of domestic abuse victims being screened for an acquired brain injury before I was educated, any more than did some of the victims screened at Drake Hall. Some of them realised that an injury had been inflicted during the abuse only when the reason for some of their symptoms was explained.

The Deputy Speaker (Baroness Garden of Frognal) (LD): My Lords, I am not getting any messages through on my iPad or my phone, so if there is anything I need to know I hope the Whip will let me know. I call the noble Lord, Lord Naseby. The noble Lord has scratched, so I call the noble Baroness, Lady Finlay of Llandaff.

Baroness Finlay of Llandaff (CB) [V]: My Lords, this amendment is important and it has been carefully worded to cover all the suggested improvements, as my noble friend Lord Ramsbotham said. It must be incorporated into guidance to prisons. The victim of a domestic abuse brain injury, normally a woman, may suffer memory loss, get confused and her speech become slurred because of brain injury. There is no physical wound or bruise; the damage is internal and invisible. Some in the criminal justice system doubt her because she appears confused and disorganised through loss of some executive functions. The brain injury remains unrecognised, and most victims will never have consulted a doctor, often through fear of talking about the abuse.

The Disabilities Trust's work in Drake Hall prison which my noble friend Lord Ramsbotham referred to found that 64% of women prisoners coming on to the secure estate for the first time had a brain injury, and almost two-thirds were from a domestic violence incident. Some 40% of the women had a traumatic injury labelled as a mental health diagnosis, and for many this was the first time anyone realised the cause of their behavioural symptoms. Similar work with male prisoners has verified exactly the same situation.

Women who have experienced domestic abuse need treatment. They may need surgery to remove a chronic clot on the brain, and they certainly need neurorehabilitation services to understand the condition and cope with it. As I said, the data from male prisoners is similar, and it is similar in young offenders too: around 40% have an acute brain injury affecting their behaviour.

We cannot ignore the size of the problem, with almost two-thirds of women having a brain injury that came about from domestic abuse. This must be incorporated into guidance. I feel that if the Government will not agree to do that, my noble friend will be forced, unfortunately, to divide the House.

Baroness Burt of Solihull (LD): My Lords, it is a pleasure to follow the noble Baroness, Lady Finlay, who is so immensely knowledgeable in these matters. I recall clearly the debate we had in Committee and what we learned about the shocking prevalence of acquired brain injury among prisoners and domestic violence victims alike.

As regards this amendment, women victims should be screened if they have been subject to domestic abuse, including women in prison. The amendment sets out quite strong qualifying criteria for screening and treatment for whether the woman qualifies as a domestic abuse victim.

In Committee, the noble Baroness, Lady Finlay of Llandaff, expressed concern about the practicality of being able to perform scans within two weeks, given the large waiting lists, which have been made appreciably worse by the pandemic. She also cast a depressing light on the fact that much acquired brain injury is irreversible. Therefore, I believe it is a balance between what is practical and what is desirable.

However, we know that productive discussions have been had by the Safeguarding Minister, with the noble Lord, Lord Ramsbotham, and Chris Bryant MP in the Commons. The noble Lord has done a great service to the House in raising this issue, and I greatly commend the work he has done over many years to raise awareness of the importance of acquired brain injury.

The noble Lord also secured a commitment from NHS England and NHS Improvement to add further questions to their existing screening tool to identify how an acquired brain injury occurred and whether violence was involved. He told the House about the extensive health examination given to new prisoners. That has certainly improved since my prison days. Much seems to be being done—or planned—by the NHS through non-legislative means. I agree with the

noble Lord, Lord Ponsonby, who spoke in Committee, that it is not totally necessary to include this amendment in the Bill.

Lord Ponsonby of Shulbrede (Lab) [V]: My Lords, I too pay tribute to the noble Lord, Lord Ramsbotham; he has a long-standing interest in this subject and I have heard him bring it up in other forums many times. As he said, he has worked constructively with Chris Bryant in another place; they have worked in tandem in bringing this issue to the fore and to the attention of Ministers. I am glad that the noble Lord, Lord Parkinson, has met the noble Lord, Lord Ramsbotham, and maybe the noble Baroness, Lady Finlay, as well.

9.15 pm

The noble Lord, Lord Ramsbotham, indicated that he is undecided about whether to divide the House on this matter, and it will depend on the Minister's response. From my party's perspective, I am not sure that this needs to be in the Bill, and we would abstain if the noble Lord were to press the matter to a vote.

I was also very persuaded, for a second time, by the noble Baroness, Lady Finlay. She made a very stark speech about the seriousness of these brain injuries and how they are potentially irreversible; she drew the problem even wider, saying that they are prevalent among male prisoners and those in young offenders' residences.

I once again congratulate the noble Lord, Lord Ramsbotham, but I urge him not to press his amendment.

Lord Parkinson of Whitley Bay (Con): My Lords, I thank the noble Lord, Lord Ramsbotham, for once again outlining the case for his amendment. Along with Chris Bryant MP, he has raised the importance and profile of the issue of acquired brain injury and the importance of early screening, for which both he and Mr Bryant should be commended. I was grateful to have the opportunity to discuss the issue in greater detail with the noble Lord, as he mentioned. However, as I indicated in Committee, we remain of the view that legislation is not the right course of action, for the reasons that I will now set out.

The amendment would introduce screening for acquired brain injury for female victims of domestic abuse, including female prisoners and those to be protected by a domestic abuse protection order. It is important that the healthcare and support provided for victims of domestic abuse and female prisoners, including those with acquired brain injury, meets the healthcare needs which may result from their abuse. We believe that this Bill is transformational in the support that it will provide for victims of domestic abuse in bringing their perpetrators to justice and raising awareness of domestic abuse, including the impact it can have on survivors.

It is for the NHS to provide the most appropriate care and treatment, based on an individual's medical history and clinical need. That is the basis on which the NHS operates, providing healthcare and diagnostic tests for those who need it, including urgent referrals.

As I mentioned in Committee, domestic abuse can manifest itself in many ways, not just through physical injuries but mental harm through coercive control and financial abuse. We do not think that such victims should be screened for brain injury, or that this would be an effective use of NHS resources. In addition, we would not want to deter women from coming forward to receive support if they are concerned about the possible outcomes of a brain screening.

I set out in Committee the improvements we have made to existing screening processes through non-legislative measures in prisons. This was in acknowledgement that more could indeed be done to improve current screening processes. The process I described will now identify and address specific circumstances where head injury or loss of consciousness has resulted from domestic abuse and other forms of violence. That is an important step forward.

As I explained, the national screening tool is reviewed and updated by NHS England and NHS Improvement on an annual basis to allow for any changes in NICE guidance or any recommendations arising from a coroner's report to prevent future deaths. NHS England and NHS Improvement have agreed the precise questions to be asked and how these will be reported against. The coding within the clinical system has been agreed, and we expect these changes to be implemented next month. I am sure noble Lords would agree that this is an important and significant step forward and a good demonstration of how we can make improvements without legislative measures.

In addition, NHS England and NHS Improvement are continuing to work with the Disabilities Trust on a training package for healthcare practitioners to increase effectiveness when supporting people with impaired neurological functioning, either as a result of domestic abuse or due to other reasons. This training is also designed to provide practical steps for those working with patients, and self-help tools for the individuals themselves to reduce and overcome the impact of any brain injury.

In his amendment, the noble Lord, Lord Ramsbotham, seeks to link screening to the issuing of a domestic abuse protection order against a perpetrator. It is important not to conflate the two issues. Domestic abuse protection orders, like other protection orders, are designed to impose requirements on the perpetrator. They cannot impose requirements on the person to be protected by the order, such as requiring them to undertake a screening for an acquired brain injury. However, we can, and we will, use the statutory guidance to the police on DAPOs to recommend that the police refer victims to an independent domestic violence adviser or other specialist advocate who will be able to advise victims on their options on a range of issues, including healthcare. We will also include information on where victims can go to seek medical attention in the DAPO advice materials for victims which we will be producing ready for the pilots of the orders.

We remain of the view that these non-legislative interventions are the appropriate way forward to address the important issue that the noble Lord has again raised and will help improve screening for acquired brain injury. On that basis, I hope that the noble Lord, Lord Ramsbotham, will be reassured and will be content to withdraw his amendment.

Lord Ramsbotham (CB) [V]: My Lords, I thank the Minister for that considered response, and I also thank all noble Lords who have spoken in this short debate. I am very relieved to hear that NHS England and NHS Improvement are working with the Disabilities Trust, and on that basis I beg leave to withdraw the amendment.

Amendment 77 withdrawn.

Amendments 78 to 81 not moved.

The Deputy Speaker (Baroness Garden of Frognal) (LD): We now come to the group consisting of Amendment 82. Anyone wishing to press the amendment to a Division must make that clear in the debate.

Amendment 82

Moved by ***Baroness Bennett of Manor Castle***

82: After Clause 72, insert the following new Clause—

"Repeal of defence of reasonable punishment

(1) Section 58 of the Children Act 2004 is repealed.

(2) In relation to any offence, battery of a child cannot be justified on the ground that it constituted reasonable punishment."

Baroness Bennett of Manor Castle (GP) [V]: My Lords, as we approached the start of Report, I looked at the progress made in the Government adopting a significant numbers of amendments proposed in Committee and at the sensible amendments achieving broad cross-party support on Report, some of which I hope we will see adopted, and there was cause for some satisfaction. There was a feeling that this Bill, pushed along by a huge amount of hard work by campaigners outside your Lordships' House who have provided us with extensive briefings and support showing the level of society's concern about the failure to protect victims of domestic abuse, truly can protect people in their own homes. This is a humanitarian Bill about preventing physical and mental suffering, damage to health and well-being, and even death.

But as the deadline for amendments approached, it struck me that there was one remaining gaping hole in protections for children. There is the amendment tabled by the noble Baroness, Lady Stroud, on in utero protection, but until now we have not even debated broad protection for children in the domestic setting, despite this being the major, long-awaited and much-debated Bill specifically covering that area of life.

In retrospect, that is extremely surprising, particularly when we look at what is happening elsewhere on these islands. Last November, in Scotland, a law giving children the same protection from assault as adults enjoy, in domestic and all settings, came into force. In Wales, the same protection will come into force in 2022. In Northern Ireland, it is under serious consideration. And of course the UN Convention on the Rights of the Child, which the UK adopted in 1990, requires the abolition of corporal punishment in all settings.

There are now also 58 other nations around the globe that have brought in what is generally known as a smacking ban, Sweden having been the first state to do so, way back in 1979. I am not generally, however, going to use the term "smacking ban", because, although it is helpful for public understanding, having wide currency, it to some degree trivialises the protection from assault that I am talking about.

Let us make no mistake: children in England can now be assaulted in ways that, were one adult to do to another, would be considered absolutely unacceptable by the law and the public. Imagine being on a bus and seeing one person lean over and slap another across the legs with clear intention to shock and cause pain; you would be on your mobile phone to the police in a second. At night, down the pub—if you can still imagine such a thing—the same behaviour would see the bouncers approaching in full force to restore order. Yet we still explicitly in law allow such behaviour towards children, the most absolutely vulnerable individuals in our society.

In the school playground, should one child behave towards another as their parent may have done the previous evening towards them, officialdom would rightly swoop down, and, should it be a pattern of behaviour, there is a real chance that that child might receive the extreme penalty of exclusion from school.

Amendment 82, which I am presenting, is simple. I apologise for my oversight in not providing an explanatory note, but I think the meaning is clear: it abolishes the defence of "reasonable punishment" that currently exists under Section 58 of the Children Act 2004, and it says that

"battery of a child cannot be justified".

I know well that this debate is not new to many in your Lordships' House. A quick internet search demonstrated just how hard many participating in the debate today worked back in 2004 to try to bring protection from assault to children. That led to restrictions on corporal punishment by a parent, so a parent can still be charged with common assault if a physical punishment causes bruises, grazes, scratches, swellings or cuts. However, a defence of "reasonable punishment" is still available in the law, even when there is physical evidence of severe punishment. It is pretty well impossible to prove that punishment is unreasonable. It is a test of intent, and we are talking about events that generally happen behind closed doors. That was a degree of progress in 2004, but not nearly enough, and it is certainly not enough for 2021.

Among the people who worked enormously hard back in 2004 were the noble Baronesses, Lady Walmsley, Lady Whitaker and Lady Finlay, who have kindly signed this amendment—bringing broad cross-party and non-party support to it—and who will be speaking shortly. I know that a number of others would have signed the amendment, had there been space. I thank all of them for their support and their experience.

They are reflecting the view of a large number of campaigners and experts. Many noble Lords will have received a briefing from the Association of Educational Psychologists that contains a very long and distinguished list of organisations, from campaigning to medical professionals, that support such a move as this. I particularly thank the Social Workers Union, which has published an article doing that just today. That the AEP has been leading recent campaigning in England

on the issue is not surprising when you see the evidence that it has assembled. It reports how the physical punishment of children causes anxiety and depression, damages self-esteem and models aggressive behaviour, which is often copied. The evidence also shows that it damages the quality of parent-child relationships.

I suggest that we also have to consider the context of the Covid-19 pandemic, which affects everything today. Children have had a hugely difficult time: for a five or 10 year-old, it is a major chunk of their life—a dominant experience that will certainly continue to have impacts on them. They need our protection and support.

Before I bring this intervention to a close, I have one final point to make. I have no doubt that some will suggest that this amendment would run the risk of unreasonably penalising struggling parents trying to do their best in extremely difficult circumstances, with the lockdown, poverty, inequality and all the other stresses of life today. But this is very much the opposite—a necessary message from a society that, surveys show, already understands that physical attacks on children are not a good thing.

We need to support parents to use positive parenting strategies to better understand and anticipate their children's behaviour and be more confident about how to set boundaries and support their children in developing self-regulation—and to control their own behaviour. Force escalation is a key issue in protecting children from assault. Research shows that when force is used, there are changes in brain activity that can lead to an escalation in the degree of force used. The AEP notes that, in a survey of parents, two in five admitted to going further than they had intended.

9.30 pm

However, as important as it is to support parents, on its own it is not sufficient. We need to understand that parents who have been subjected to assault themselves as children, who have often had little or no education in methods of managing child behaviour, and who all too often are under enormous pressure need support.

When smacking bans have been brought in in those 58 other countries that already have them, there has not been a rush to litigation or a flood of parents locked up in jails. Back in 1999, research for the Children's Society spoke to the experts themselves, the children. A seven year-old said:

> "I was just thinking that if they changed the law then a lot of people will realise what they had done to their child and they would probably … be happy that the law was changed. If they don't change the law they will think 'oh well, the child doesn't mind so we can keep on doing it'."

That voice of a seven year-old is an excellent place to finish my argument.

I will not push this amendment to a vote. My extremely experienced and knowledgeable collection of supporters from your Lordships' House persuaded me, somewhat against my natural inclinations, that that would not be the right thing to do at this time. Of course, that does not prevent the Government deciding to incorporate it into the Bill as its progress continues. I ask the Minister to consider that carefully. I am not expecting sudden action today, but certainly in future.

I have a further ask of the Minister: will she agree to meet campaigners, fellow Peers and me to examine the evidence and discuss ways forward or, if it is more appropriate, to approach the relevant Minister on our behalf to arrange such a meeting? In the meantime, I beg to move.

The Deputy Speaker (Baroness Garden of Frognal) (LD): I now call the noble Baroness, Lady Whitaker. Is she there? No. Let us go on to the noble Baroness, Lady Walmsley. Lady Walmsley, we cannot hear you.

Baroness Walmsley (LD) [V]: My Lords, I am sorry; I had not realised I had been called and did not hear the Deputy Speaker.

I am most grateful to the noble Baroness, Lady Bennett, for seeing the opportunity to bring this really important issue before your Lordships again. As she said, now is a very good time to return to a subject I first raised in your Lordships' House 20 years ago, soon after I was introduced as a Peer. The time was right then, and it was also right when a group of us tried unsuccessfully to completely remove the reasonable punishment defence during the passage of the Children Act 2004. It is even more right now, as violence against children has increased during the Covid-19 pandemic. Any time is a good time to stop violence against children.

The fact is that if this country cannot give its children equal protection under the laws of assault, such as their parents enjoy, it cannot say that it values its children and protects their rights. The committee on the UN Convention on the Rights of the Child agrees and has been very critical of the UK. Public opinion also agrees: 20 years ago, 80% of the public thought it should be illegal for anyone to hit a child. Indeed, many thought it already was. I suspect it is even higher now. Most people think violence against a child is a particularly egregious act, especially when it happens in a child's own home, from which she cannot escape, and is done by someone she should be able to trust to protect her.

Of course parents have a right to bring up their children to behave well, but there are many more effective ways of demonstrating right and wrong. In the 58 countries where the law bans parental violence against children, parents have been helped to learn better ways of carrying out their duty to discipline their child. It is often called "positive parenting". Violence against a child is definitely negative parenting, and most young parents today agree and would not dream of hitting their child.

As the noble Baroness, Lady Bennett, has said, children learn by example. Parents who beat their child cannot be surprised if the child copies that behaviour and hits other children in the playground and, because violence begets violence, they may also grow up to beat their own children. Violence is also detrimental to the development of the child and should be regarded as an adverse childhood event—an ACE—deserving of intervention.

Recent research supports a ban on hitting children. A large long-term longitudinal study by Ma, Lee and Grogan-Kaylor, published in the *Journal of Pediatrics*

[Baroness Walmsley]
in February, of a range of adverse child experiences with particular focus on violence against children, reached the following conclusion:

"ACEs and spanking have similar associations in predicting child externalizing behavior. Results support calls to consider physical punishment as a form of ACE. Our findings also underscore the importance of assessing exposure to ACEs and physical punishment among young children and providing appropriate intervention to children at risk."

In other words, they found that hitting children does not stop them misbehaving; indeed it can make it worse and has an adverse effect on their development, so services with a duty to protect the child should intervene to stop it. That starts with the law of the land. In the UK, we have already acknowledged that a child who watches violence against its mother in the home is at risk of mental and emotional trauma. How much more trauma will a child suffer who is treated to the same violence himself or herself?

We all want to help parents with the hardest of tasks—bringing up a child healthy and happy—but the current law does not do that. It is discriminatory to children and unhelpful to parents. Hitting a child hard enough to cause a bruise is illegal, but some children do not bruise easily, so could be hit harder without the parents breaking the law. How does a parent know how hard they can hit a child before overstepping that limit? Of course, the answer is not to do it at all and find a better way that does not damage the child you love. The law is nonsense and must be changed.

People have realised this in other countries, including the other three in our own union. Scotland has banned and Wales is about to ban violence against children, and Northern Ireland is looking at it. It is instructive to look at how other countries did it; there is a common approach. When I was in New Zealand, I heard directly from the Minister there about how a lot of help was put in place for parents to learn better ways of disciplining children before removing the very damaging option that we are discussing today. Help with positive parenting and someone to turn to for advice—we need to do that too. It is not that difficult or expensive, but the benefits are enormous for families.

I have a final point. Sweden was the first country to ban parents from hitting children, over 40 years ago, yet Swedish prisons are not and were not full of caring parents who occasionally lost their temper and gave their child a trivial smack. By the way, most parents who do that regret it very much afterwards. Those who fear criminalising otherwise caring parents should remember that the CPS will charge someone with a criminal offence only if the situation meets two tests: first, there is a good chance of obtaining a conviction and, secondly, it is in the public interest. The situation I have just described would not fulfil those tests. However, the law on assault should be clear, helpful to parents and fair to children.

The Government need to show leadership here. When Sweden banned hitting children in 1979, there was not a majority of public opinion in favour of the change, as there is here, but its Government went ahead and did the right thing anyway. Now, Sweden could not get away with legalising hitting children as, I am pleased to say, strong public opinion would prevent such a move. I beg the Government to show similar leadership and accept this amendment, or do I have to spend another 20 years campaigning for it?

The Deputy Speaker (Baroness Garden of Frognal) (LD): We are trying to get the noble Baroness, Lady Whitaker, but meanwhile I call the noble Baroness, Lady Hoey.

Baroness Hoey (Non-Afl): My Lords, I rise to speak against Amendment 82. I appreciate that the noble Baronesses who have tabled this amendment mean well, although their language is quite interesting because they have used the most extreme language. They talked about violence, battering and physical attacks. I do not see any need for a criminal ban on—I know the noble Baroness, Lady Bennett, did not want to use this word but I will say—smacking, or an end to the reasonable chastisement law.

It is important we remember that all the law currently allows for is a parent to, if they wish, use a very mild smack on the bottom or a tap on the back of the hand or leg. There is no evidence that this very moderate and limited defence has been misused to allow parents to get away with abusing their children. The idea that it leads to escalation—a parent using a very mild smack today will beat their child black and blue tomorrow—is such an insult to millions of normal, decent parents who would never dream of doing any such thing. You might as well say that shouting at your child should be banned, because that too can sometimes escalate.

It is a ridiculous and offensive notion and frankly, for me, some of the alternatives that this "good parenting" brings in which families could use to chastise seem much worse. If I was a child, my choice would be to have the quick smack and be outside playing again rather than being locked up in my room for three or four hours on my own with nothing or nobody to speak to. We have no idea what the psychological effects of that are on young children.

The noble Baroness, Lady Walmsley, talked about public support. We do not have that public support. We know there are no popular calls for a ban. It may be an issue which obsesses certain activists and people, but the idea that the public are clamouring for us to criminalise parents who smack is far from the truth. Polling in Scotland and Wales ahead of the smacking bans there demonstrates how unwanted and unwelcome these new regimes are: 76% of Welsh adults said no to changing the law in 2017 and 74% of Scottish adults opposed a smacking ban. I have not seen much discussion of it in Northern Ireland. Let us not pretend the Great British public have given a mandate to change the law. In my view and in most parents' views, smacking is a reasonable option that responsible parents must be free to use if they see fit.

Journalists, campaigners and some of the noble Lords who have spoken are prone to claiming that "this study says this" or "that research says that" or "that psychologist says this" and it deserves to be criminalised. But if you actually look at the data, you usually find either that the researchers are active campaigners dressing their views up as science or that the research did not make the claims attributed to it. I

am not aware of any reliable studies showing causation between gentle physical chastisement of the kind we are talking about and negative child outcomes. By removing the reasonable chastisement protection, tapping your child on the hand or the bottom would become a crime—an assault, as some of the noble Baronesses call it.

If this happens, the police and others would have a duty to report and investigate every case that came to their attention. Every instance of a loving mum or dad using a little smack in a reasonable and normal manner, perhaps when the child was in imminent danger, would suddenly be liable for prosecution. That cannot be anything but detrimental to that family's trust in the authorities. Removing the safeguard would likely result in significant overreporting to social services. The twitching curtain brigade would love it.

There are probably thousands of parents using reasonable chastisement every day, and the idea that they would all stop overnight because we tell them to is, I am afraid, pretty naive. Even if only a fraction of those parents came to the attention of the authorities, it would place considerable pressure on the already overburdened social services and police, and this would dilute the resources available to help truly vulnerable children and their families. Some of them would eventually slip through the cracks and be overlooked. I believe that this would be the legacy of passing this amendment.

9.45 pm

In all honesty, I fail to see how removing the reasonable chastisement defence helps families at all. It would increase the pressure on reasonable parents and dissolve their trust, and it would increase the pressure on our vital services and those most at risk. Finally, it would hinder the cohesion of some of the United Kingdom's communities. Our nation has a wide diversity of communities; however, marginalised communities may be especially caught by the ban, because it would be likely to affect some more than others. If social services, the police and others are seen as interfering, that would only increase distrust and division.

I look around your Lordships' House tonight—well, I do not see too many people, but I can see them on Zoom—and I wonder how many of its Members could honestly say that they were never smacked as a child.

Very seriously, I believe that this amendment would genuinely risk real child abuse being seen differently. If the public think and are told that smacking in the way that I have described is child abuse, I believe that the bar is lowered so much that the way other really serious child abuse is seen could be seriously damaged.

Families are the backbone of our society and they deserve all the support we can give them. The reasonable chastisement defence is, by definition, a reasonable law. I know that this amendment is not being put to the vote tonight. I actually wish it was; I am pretty convinced that noble Lords would vote against it, because the public know that this is not the right way to go, and it certainly should not be attached to a Domestic Abuse Bill.

Baroness Finlay of Llandaff (CB) [V]: My Lords, I thank the noble Baroness, Lady Bennett, for introducing this important amendment to the Bill, just as I did 16 years ago when the Children Act was making its way through this House. The aim has not changed: to allow children the same legal protection from violence that adults enjoy today—no more, no less.

While the aim has not changed, the times and society certainly have. In the 1990s, parents interviewed in confidence as part of a research study commissioned by the Department of Health admitted to very high levels of corporal punishment, with the admission of violence doubling when both parents were interviewed. Three-quarters of mothers said that they had already smacked their baby before its first birthday, which is before language has developed. Over 91% of children had been hit, with the youngest and most vulnerable hit most often. Almost half the children were hit weekly or more often. One-fifth had been hit with an implement, and 35% had been punished severely, which is defined as with the intention or potential to actually cause harm to the child. That included actions that were repeated, prolonged or involved the use of implements. Today, those children are parents.

In 2021, we find ourselves a year after national lockdowns began. The pressure on parents has been enormous, and we know that if a parent hits a child, it is usually in response to pent-up feelings. When parents have been forced to be indoors 24 hours a day, trying to work and look after their children at the same time, many parents have struggled to hide their frustration at one time or another.

The circumstances of the pandemic have only emphasised the need for many of the amendments that have been accepted by the Government already. The Government have done a great deal to ensure the safeguarding of children, but the state of the law on this undermines it.

A recent paper in the *Archives of Disease in Childhood* showed that in one hospital in 2020 in just one month, the number of cases of serious child injury rose by almost 1,500% compared with the same period in the previous three years, pointing to a silent pandemic of abuse in 2020. Ten children aged 17 days to 13 months had head trauma. This is just one of several such reports, confirmed by the 80% increase in NSPCC referrals.

Research clearly shows that corporal punishment has all kind of negative effects on mental health, parent-child relationships, increased anti-social behaviour and child aggression. Almost all abuse takes place in the context of so-called punishment or discipline. Sweden's experience of banning smacking has shown that it benefits children and society as a whole, and 60 countries have now followed suit.

I will address the concerns of the noble Baroness, Lady Hoey. Loving, caring parents need to use physical actions at times, especially with young children: to protect them, to grab them and lift them, to restrain them and so on. The amendment would not interfere with this part of day-to-day parenting, or with the ability to punish in non-violent ways. But smacking can escalate to beating the living daylights out of a child. That is what the amendment seeks to address.

[Baroness Finlay of Llandaff]

Most parents report that they regret having hit, but it escalates so easily into more serious violence. Children who are pinched, slapped, shaken and spanked are seven times more likely to experience severe violence such as punching, kicking or hitting with an object. They are being taught that the way to cope with feelings of frustration in oneself is to hit someone who is vulnerable. Aggression breeds aggression. Children must learn de-escalation and parents must set the example.

In 2022, a law banning the smacking of children in Wales will come into force, thanks to Julie Morgan's leadership on the issue. Scotland passed such legislation in October 2019, and several people have seen at first hand how counting to 10 rather than a frequent quick slap has resulted in better child behaviour. Now England should follow. The amendment will not stem the tide of domestic abuse, but it will give the next generation the same protection in law from serious abuse that we aim to afford to adults. That is why I support it.

Baroness Fox of Buckley (Non-Afl): My Lords, this amendment attempts to repeal the defence of reasonable punishment as part of the Children Act. In my mind, that would effectively criminalise parents for reasonably chastising their own children.

In doing so, the amendment raises a number of ethical pitfalls that the state faces whenever it legislates to police private family life in a free society. Historically, we have recognised that state interventions into family life should be rare, proportionate and handled with due respect for parental autonomy. In recent years, we have sadly seen an unfortunate trend towards top-down overreach, and this amendment is a good illustration. In the whole of the Domestic Abuse Bill, with its focus on helping those abused in domestic settings or contexts, we still need to remember that this is not a green light to tear up all the norms of privacy and liberty when it comes to family life.

Essentially, the amendment would remove the legal defence of reasonable chastisement from parents who might occasionally smack their own children. Effectively, this declares that the Government know better than loving parents, who could find themselves vulnerable to charges of common assault just for being parents

Of course, there will be people here who might not approve of slapping. We have already heard from some. But that is their business. That is no justification for overruling other parents' decisions, or their values. Should we assume that the state always knows best when it comes to child rearing? I am sure that those raised in care homes might have a different view.

The amendment is also entirely unnecessary, because it is already illegal to aim a smack at a child's head or to hit a child with an object, as is any smack that leads to more than the temporary reddening of skin. In other words, unreasonable punishment is already against the law, and rightly so. The vast majority of society view violence aimed at children as abhorrent. They think that beating children should be not just illegal but morally condemned, as we all do. So what would this amendment outlawing even a reasonable use of smacking achieve?

The amendment states that

"battery of a child cannot be justified on the ground that it constituted reasonable punishment."

Of course battery cannot be justified on the basis of reasonable punishment—but think about the use of that word, "battery". It conjures up horrors, does it not? Why was that word used in this amendment? I noticed that, in campaigns to ban smacking in Wales and Scotland, one of the most egregious tactics of anti-smacking lobbyists was this irresponsible conflation of smacking with gross acts of violence. This rhetorical trick is shameless and shamefully distorts intention and context.

It is important to state for the record that violence is physical force intended to injure. In contrast, if a mum or dad smacks a five year-old child for being naughty, they have no intention of causing injury. Rather, they, like all of us, want to teach their child right from wrong, for example by chastising them for running in front of a car. This is driven by parental love, not a desire to injure. Conflating slapping with violence paints ordinary mums and dads as potential violent thugs or child abusers. It is just so insulting. It also shows a certain distrust of ordinary parents; tonight, we heard people describing smacking and beating the living daylights out of children in the same sentence.

For the noble Baroness, Lady Bennett, who argued that we should treat the smacking of a child as we would treat a bodily attack on a grown adult, again, let us think about context. Do we really believe that children should not be treated differently from adults? In the real world, parents do many things to their children that they would not dream of doing to another adult. When you order a child to bed, you do not order adults to bed, do you? You check whether your child's bottom is clean; you would not do that to an adult. We treat children—especially our own—differently from adults. If you confiscate your teen's Xbox or phone, we do not consider that theft because of the context. It is common-sense disciplinary action, as smacking can be. Smacking is not assault; it is not even comparable. So I hope that noble Lords agree that parents are better placed to judge when and how to discipline their offspring than any number of NGOs—even if they come waving state-approved parenting manuals full of best practice checklists and "Count to 10".

Finally, the danger with overreach is that it expands who and what is criminalised. As I have warned several times during the passage of this Bill, and as the noble Baroness, Lady Hoey, pointed out, this could open the floodgates to complaints of minor incidents and overwhelm the police and social services, which are already overstretched. When I argued this in Wales in relation to the debate there, I was assured that the legislation was not about criminalising parents, but about sending a message. However, politicians cannot change the criminal law and expect the police and courts not to enforce it. It is not a communications strategy. Also, the Scottish Government encouraged the public to phone 999 if they witnessed a parent smacking their child; they also distributed leaflets aimed at children, urging them to report on their parents. Can you imagine how divisive, demoralising

and damaging that is for family life? How does it protect children if the law undermines parental authority, or if families are ripped apart by damaging police investigations because a child was smacked? It would discredit the whole concept of domestic abuse, as well as child abuse, if we treated smacking as assault under this Bill. We ourselves would launch an assault on family coherence.

Finally, for many weeks now, we, in following this Domestic Abuse Bill, have focused on the dark side of family life. Earlier this evening, we heard harrowing tales of stalking, abuse, women at risk and so on. However, we must make sure that this does not poison our world view. We should avoid starting to see abuse everywhere. Behind closed doors is not a dystopian hellhole. The majority of families are joyous places of solidarity and socialising children. Sometimes they are messy. Sometimes they are argumentative. Sometimes there is a bit of shouting. Sometimes there is the odd smack. However, they are largely full of love. This amendment suggests otherwise and should be rejected.

10 pm

Baroness Lister of Burtersett (Lab) [V]: My Lords, I thank the noble Baroness, Lady Bennett of Manor Castle, for tabling the amendment, which I support on three grounds.

First, and perhaps most important, I support it on the grounds of children's rights. Article 19 of the UN Convention on the Rights of the Child says that Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents and anyone else who looks after them. Yet successive Governments have failed to implement the recommendation of the UN Committee on the Rights of the Child, that they should prohibit, as a matter of priority, all corporal punishment in the family, including the repeal of all legal defences. In the past, the Joint Committee on Human Rights concluded that the defence of reasonable punishment was incompatible with children's rights under various human rights treaties and recommended that it be replaced with a provision drafted to remove that defence and give children the same protection from battery as adults.

Secondly, as we have already heard, despite the assertions of the noble Baroness, Lady Hoey, there is a growing body of evidence that indicates that smacking—or whatever you want to call it—can have an adverse, long-term impact on children's mental health and behaviour, as well as a negative impact on parent-child relationships, rather souring the happy, halcyon image of the family that the noble Baroness, Lady Fox, just painted. Back in 2015, four UK Children's Commissioners called for the immediate prohibition of corporal punishment in the family. That was over five years ago.

Thirdly, is the example set not just by most other European and OECD countries but, as we have heard, by our own devolved nations of Scotland and Wales. It is no coincidence that, unlike the Westminster Government, these devolved nations treat the UN convention as a guiding light in their policy-making on children. If children in Scotland and Wales are no longer to be at risk of smacking on the grounds it constitutes reasonable punishment, what possible justification is there for children in England to continue to be at risk? I am afraid I do not take the arguments put by the noble Baroness, Lady Fox, as providing any such convincing justification.

No doubt the Minister will argue that this Bill is not the place for such an amendment, as did the noble Baronesses, Lady Fox and Lady Hoey. That may be so, though the fact that we are debating it today means it is in the scope. But I welcome the opportunity it has given us to debate the issues it raises, and I hope the Minister will take back to the Department for Education the messages raised by the majority of those contributing to the debate and seek the meeting called for by the noble Baroness, Lady Bennett.

There is a wider message gaining growing support in civil society: we need a Cabinet-level Minister with special responsibility for children and their needs, concerns and rights or, at the very least, the restoration of such a post at Minister of State level. I hope that child-friendly developments in England and Wales will lead to change in England too, including the repeal of the defence of reasonable punishment.

Lord Curry of Kirkharle (CB) [V]: My Lords, I am afraid that I cannot support Amendment 82. I very strongly support the comments of the noble Baronesses, Lady Hoey and Lady Fox. The defence of reasonable chastisement was created to stop parents being prosecuted for assault when they did not deserve to be prosecuted. If a parent hits a child in a way that causes any kind of mark—the CPS would say anything more than a transient reddening of the skin—then they have used unreasonable chastisement and can quite properly be prosecuted. The reasonable chastisement defence helps to ensure that good parents do not find themselves accused of being a child abuser for doing something perfectly gentle and humane. This defence therefore exists, first, to keep children safe and, secondly, to protect loving, decent parents. The current law does not need amending; it achieves the right balance. Who, after all, wants to criminalise reasonable behaviour?

Friends of ours had a child taken from their family by overenthusiastic social workers, quite wrongly, which caused enormous distress. It was because of an unexplainable bruise. I expect that most of us experienced reasonable chastisement when we were children. In 2017, a ComRes poll found that this was the experience of 85% of adults. If reasonable chastisement was so harmful that it deserved to be criminalised, you would expect eight out of 10 adults to manifest the same symptoms as children who have been abused. But of course they do not. How many of us whose parents loved us, cared for us and taught us right from wrong think our childhoods would have been better if our parents had been prosecuted merely for giving us a well-deserved smack on the bottom? That is what this amendment would mean for families today.

Parents know their own children. They are best placed to judge whether a tap on the hand of a toddler who has resisted all other blandishments is the right call. I would strongly challenge the assumption that every parent who smacks their child should be described as hitting and violent. None of us approves of such

[Lord Curry of Kirkharle]
actions. Parents have a huge range of tactics and strategies at their disposal to help their children grow up into kind, diligent adults: gentle instruction, words of praise, the naughty step and withdrawing privileges. But for many parents, reasonable chastisement sometimes fits the bill. Who are we to make criminals of those whose parenting philosophy differs from our own on this point?

For every person who claims that such common-sense parenting is damaging, we have thousands of sensible parents living in the real world who are convinced otherwise. Opinion poll after opinion poll shows that three-quarters of the public do not want to expose parents who use reasonable chastisement to the full force of the criminal law. This amendment is neither necessary nor wanted by the public. We should not use the criminal law to enforce political fashions and condemn the mums and dads of today for making the same decisions that many of us have made. We must let parents decide for themselves. Common sense should not result in a criminal record, and that is not an alarmist statement.

Last year, as we have been told already, Scotland passed a law banning smacking, while telling critics again and again that removing the reasonable chastisement defence would not result in parents being criminalised. Yet less than a month before the ban came into effect, the Scottish Government published advice telling members of the public to dial 999 to report a crime in progress if they saw a parent smacking their child. We are only months into the implementation of that law in Scotland, so we must wait and see what happens once the authorities begin to enforce it in earnest. So far, there is a lack of evidence that criminalising parents has reduced domestic abuse in countries that have introduced so-called smacking bans.

Instead of attacking good parents we should be reassuring them of our support, especially after the challenging year that families have experienced. There would be a real danger in including this amendment in the Domestic Abuse Bill. Loving parents are not domestic abusers and it is insulting to suggest otherwise. A gentle tap on the hand to discourage a persistent two year-old from putting their finger in every plug socket they encounter is not child abuse but responsible parenting. Abusive parents are already caught by the law, but this amendment would task police and social services with targeting not abusive but loving parents. It would be a serious mistake.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): My Lords, we shall now hear from the noble Baroness, Lady Whitaker.

Baroness Whitaker (Lab) [V]: My Lords, I am very pleased to add my name to this amendment, so ably moved by the noble Baroness, Lady Bennett of Manor Castle. It is high time that the rights of children in respect of assault were given proper recognition. Of course, such assaults—otherwise termed corporal punishment—were not always regarded as wrong, and I can see that some people still do not regard them as wrong, but norms change, thankfully. Some newly accepted norms we think important enough to put into law, so that we can affirm them as a society. This particularly applies to instances of violence, which we have heard a lot about in this debate. Duelling was acceptable until it was made illegal, and indeed corporal punishment in schools was common until it was legally banned, as it was eventually—though shamefully late—in institutions for children with learning disabilities. Smacking within the family was accepted until the last Labour Government took the small step of banning it, but only if it left a mark—an odd concept in these days of valuing diversity of colour, as my noble friend Lady Howells, now retired, pointed out.

Of course, conduct does not always follow the law, which is why enforcement is a necessary corollary, but in this case the law lags behind popular opinion. When I last looked at the subject, the majority were in favour of making smacking illegal. Libertarians might argue that if the norm is changing, why have a law? Indeed, we have heard some even more extreme arguments this evening. I think the contemporary answer is that in a diverse society, if generally agreed changes in conduct are not given a push, traditional forms of behaviour, rather than the fast becoming socially accepted standard, will still prevail and harm children. Now, more than ever, we need laws that unite us and affirm the important values of dignity and respect for others, especially if they are weaker, smaller or more vulnerable. It is time for assault on children to be banned everywhere.

Baroness Burt of Solihull (LD): My Lords, what a very interesting debate this has been; I did not expect this. I am grateful to the noble Baroness, Lady Bennett, for tabling the amendment. I also commend the work of my noble friend Lady Walmsley, who first raised this issue 20 years ago. The statistics I have show that 20 years ago some 80% of the public thought hitting a child should be illegal. What has happened in the intervening years to warrant parents' outrage—as described by the noble Baroness, Lady Hoey—at the prospect of not being able to smack their children, I am not entirely sure. As I have been involved in this subject before, I was surprised to learn that the corporal punishment of children is not illegal already. It contravenes the UN Convention on the Rights of the Child, as the noble Baroness, Lady Lister of Burtersett, reminded us.

Turning to the reasoning for amending this Bill now, we know that violence begets violence, as described so eloquently by the noble Baroness, Lady Finlay. As she said, there is a pandemic of violence in this country and the vast brunt of domestic abuse falls on women, having been perpetrated by men. It has been a distressing experience for me to have to go through all the ways and circumstances in which this happens, but those who perpetrate violence always pick a victim weaker than they are. Some men do it to women, but some men and women do it to children.

10.15 pm

The noble Lord, Lord Curry, gave us a case study of a child who had been taken away from their parents because of an unexplained bruise, implying that safeguarding should not be properly investigating things such as bruising of children. In my view, better safe than battered.

I do not need to rehearse the arguments about how a culture of violence is passed from generation to generation or how we will never stop this happening until it is nipped in the bud. A child who has not had violence perpetrated on them is far less likely to become a perpetrator themselves.

My noble friend Lady Walmsley makes the important point that in this country we do not afford our children the same protections as their parents. The Bill includes children within the definition of a victim. How can it be illegal to hit the mother or the father but legal to hit the child? Under the law as it stands, it is not illegal to hit a child unless you raise a bruise. That is all right then—you can commit any of the other actions of domestic abuse described under Clause 1(3) and hit a child hard, but not so hard that others can witness the outcome of what you have done.

The only way to stop this pandemic of abuse is to stop transmission from one generation to the next and train perpetrators to handle differently situations where violence is likely to occur.

Many other excellent points have been made by other noble Lords. There is no need for me to detain the House by repeating them. They are doing it in Scotland; they are doing it in Wales; why can we not do it in England? The noble Baroness, Lady Fox, says that if we did so, we would open the floodgates to trivial complaints. This has been refuted in this debate; the noble Baroness, Lady Whitaker, summed this up by saying that norms change. I hope the noble Baronesses, Lady Fox and Lady Hoey, are swimming against the tide. I and my party strongly support this amendment.

Lord Rosser (Lab) [V]: I agree with the noble Baroness, Lady Burt of Solihull, that this has been a very interesting debate, but I do not intend to detain the House long.

Amendment 82, moved by the noble Baroness, Lady Bennett of Manor Castle, would repeal Section 58 of the Children Act 2004 and provide in this Bill that:

"In relation to any offence, battery of a child cannot be justified on the ground that it constituted reasonable punishment."

The 2004 Act set out safeguards on the physical punishment of children. It provides that battery of a child, which covers the smacking of a child, could not constitute reasonable punishment if it was related to certain offences, I think such as grievous or actual bodily harm, cruelty or wounding. This amendment would widen that to all situations and circumstances.

I note that the noble Baroness, Lady Bennett of Manor Castle, has said that she will not push for a vote on her amendment, which seeks a significant change to existing law under the Children Act 2004. I can understand why she has made that decision. When the Children Act 2004 was going through Parliament, the debates on its terms were lengthy and included the issue of whether smacking should be permitted as a reasonable punishment in any circumstances under that Act.

The kind of significant change to existing law being sought in this amendment on children should be the subject of consultation and consideration, providing a proper opportunity for the case and supporting evidence, both for and against such a proposition, to be fully debated, tested and aired prior to a decision being made on whether to agree to change the existing law. That level of scrutiny cannot be achieved through this amendment on Report stage of this Bill and, for that reason, we believe that the noble Baroness, Lady Bennett of Manor Castle, while certainly raising an important issue on what is or is not acceptable in the treatment of children, is right in her decision not to push this to a vote.

The noble Baroness, Lady Bennett of Manor Castle, is also justified in drawing attention to developments on this issue in Scotland and Wales that are in line with her amendment, and seeking an undertaking from the Government to listen to and examine the evidence for change, and consider whether the current legal position as set out in the 2004 Act should be amended. I wait to see if the Government, in their response, will indicate a willingness to do this in light of the points that the noble Baroness, Lady Bennett of Manor Castle, made in moving her amendment.

Lord Parkinson of Whitley Bay (Con): My Lords, as the noble Baroness, Lady Bennett of Manor Castle, has explained, her Amendment 82 seeks to repeal Section 58 of the Children Act 2004 and to replace it with a provision that removes the defence of reasonable punishment from parents, or persons acting legally as parents, to charges of battery against a child in relation to any offence.

I make it clear at the outset that the Government absolutely condemn abuse and violence towards children. Accordingly, Clause 3 was added to the Bill in another place to recognise that a child is considered to be a victim of domestic abuse, including physical abuse, in his or her own right, if they see, hear or experience the effects of domestic abuse and are related to either the targeted victim of the abuser or the perpetrator. The Government are aware of recent legislation in Scotland and Wales that removes the defence of reasonable punishment. While parents are responsible for disciplining their children, they must do so within the boundaries of clear laws against violence towards children in England.

Section 58 of the Children Act 2004 changed the law significantly to give children greater protection. The defence of reasonable punishment can no longer be used when parents or those acting in place of parents are charged with assault causing actual or grievous bodily harm or child cruelty. The law in England provides that parents and other adults who are acting legally in place of the parents may plead a defence of reasonable punishment to a charge of common assault against a child. Common assault amounts to where an injury is "transient and trifling".

Following the 2004 Act, the Crown Prosecution Service amended its guidance so that it acknowledges the particular vulnerability of children. An injury that would lead to a charge of common assault where the victim was an adult would normally be charged as actual bodily harm or a more serious offence if the victim were a child. Parents who cause injuries to children such as grazes, scratches, abrasions, bruising, swelling and superficial cuts are already at risk of being charged with actual bodily harm and would have no defence of reasonable punishment. Child protection agencies and

[Lord Parkinson of Whitley Bay]
the police treat allegations of abuse very seriously; they will investigate and take appropriate action, including prosecution, where there is sufficient evidence of an offence having been committed.

Statutory guidance, *Working Together to Safeguard Children*, sets out what professionals and organisations need to do to safeguard and promote the welfare of children and young people. Further statutory guidance entitled *Keeping Children Safe in Education* also sets out what staff in schools and colleges should do to safeguard children and young people.

Relationships, sex and health education is now a statutory part of the curriculum. The focus on healthy relationships in primary and secondary schools will help children and young people who are experiencing or witnessing unhealthy relationships to know where to seek help and report abuse, as well as addressing inappropriate behaviour, harassment, abuse or exploitation. In short, there are already strong safeguards in existing legislation and statutory guidance that protect children from physical harm as a form of punishment. The current legal position is clear, appropriate and protects children from abuse and harm. The Government do not accept that the law, as it stands, is in breach of the United Nations Convention on the Rights of the Child; we believe that it complies with Articles 19 and 37 on abuse and violence towards children.

We accept that there are differing views on Section 58 of the Children Act, and we have heard them expressed again on both sides in what has been a lively and informative debate, including some very powerful speeches against the amendment from the noble Baronesses, Lady Hoey and Lady Fox of Buckley, and my fellow Northumbrian, the noble Lord, Lord Curry of Kirkharle. As the noble Baroness, Lady Bennett, noted, this has been a long-running issue. I am glad that she has listened to the counsel of her supporters and agreed not to press this issue to a vote this evening. She and I are equally new to your Lordships' House as we were introduced around the same time, but I agree with those who have said that this is too an important an issue to be slipped into the Bill at this late stage. However, she rightly used the opportunity to ask some questions and seek a meeting. That is properly a matter for the Department for Education, but I shall pass a request for a meeting on and ensure that it replies to her directly about it. With that, and having sparked this lively and interesting debate, I hope that she will now be content to withdraw her amendment.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I thank the Minister for his answer and everyone who has participated in this debate. I share the feeling of the noble Baroness, Lady Burt, about the need to draw a very deep breath before I begin. I think many people in British society would be surprised at the tone of some of the arguments presented this evening by those opposing this amendment. I suspect the noble Baroness, Lady Walmsley, would feel that some parts of our political landscape have not changed very much in 20 years. However, that is perhaps because there is a feeling that that part of the political landscape is very much swimming against the tide of public opinion—I might even say the tide of history.

I thank the Minister for his offer to pass on a request to the department. I will be pursuing that very vigorously, and I very much hope that we will have a ministerial meeting. These are issues that need to be raised at the highest level, particularly given what is happening in the nations around us. I welcome the Minister's comments about how much progress is being made in sex and relationship education, something I have long been campaigning on. It is something that needs to be monitored very closely to make sure that it is meeting the needs of our current society.

The noble Lord, Lord Russell, rightly identified the reasons why I was persuaded not to push this further at this moment. This was not on the list of amendments in Committee and it is not normal practice to go further at this stage, but it is obvious that the level of debate is going to be stepped up significantly.

I am aware of the hour, so I shall be brief, but it is worth drawing together the noble Baronesses, all of whom are veterans of this campaign. The noble Baroness, Lady Walmsley, made very important points about the context in which this debate is happening, which is the Covid pandemic, and about how we now understand so much more about adverse childhood experiences and their impact on children. That is a reflection of how far the science has moved on in the past two decades. Indeed, the noble Baroness, Lady Finlay, who has an expert's perspective, acknowledged how the current law undermines the Government's efforts in child welfare and other areas and gave an expert account of what is being seen in our hospitals and by our doctors.

10.30 pm

The noble Baronesses, Lady Finlay and Lady Lister, focused on rights. We are talking about children's rights to be protected from all forms of violence; that is the crucial issue here. In passing, I offer my support to the noble Baroness, Lady Lister, on the need for a Minister for children. We have seen an acknowledgement of the need for children's commissioners, which has been hugely valuable, but we need to go a step further, closer to the centre of government.

The noble Baronesses, Lady Hoey and Lady Fox, took issue with the nature of the language that I used. A better response could perhaps be given by one of the noble and learned Members of your Lordships' House, but from my lay legal knowledge I point out that "battery" is not a rhetorical device but the description of a common law offence under English law. When we talk about violence, we are talking about physical attacks and those are the words that we would use when referring to what happens between two adults. We are talking about exactly the same thing. In fact, we are talking about an interaction that we might see between a very large and heavy adult and a very light, small adult—the imbalance of power is much greater.

I also pick up on the comments of the noble Baroness, Lady Hoey, on public opinion in Wales. I am not sure which survey she was referring to, but the *Public Attitudes to Physical Punishment of Children: Baseline Survey, 2018* found that 62% of parents and caregivers of children under seven disagreed with smacking. Only 5% of parents strongly agreed that it was necessary. Those are the modern parents to which other noble Baronesses were referring.

I take issue with the comments of the noble Lord, Lord Curry of Kirkharle. I paraphrase slightly but he more or less said, "It happened to 85% of adults in the past and we have turned out all right, haven't we?" Reflecting, as the whole of our society has been doing, on the level of misogyny and violence against women and girls, I very strongly question that conclusion. I would add, as several noble Baronesses have said, that violence begets violence. We know that that is the factual truth.

To address the point made by the noble Baroness, Lady Hoey, that all the research was some kind of anthropological activist research, I point out that among the long list of organisations backing a ban on assaults on children, we have the Royal College of Paediatrics and Child Health, the Royal College of General Practitioners and the Professional Association for Childcare and Early Years. These are not activists or campaigners; they are the professionals who know and are gravely concerned about the well-being of the children in their care.

I am restraining myself, noticing the hour. I will leave this here for the moment, but we are past time in taking this action. It is happening all around us geographically, all around the world. I do not agree with the Minister's conclusions about complying with the UN Convention on the Rights of the Child. I very much hope—indeed, I am confident—that the noble Baroness, Lady Walmsley, will not need to spend another 20 years campaigning on this issue. In the meantime, I beg leave to withdraw the amendment.

Amendment 82 withdrawn.

Lord McNicol of West Kilbride (Lab): We now come to the group beginning with Amendment 83. Anyone wishing to press this or anything else in the group to a Division must make that clear in debate.

Amendment 83

Moved by ***Baroness Greengross***

83: After Clause 72, insert the following new Clause—

"Duty to report suspected abuse

A local authority must ensure that, where any of its employees suspects in the course of carrying out a financial assessment for adult social care that a person is the victim of domestic abuse, the employee reports the suspected abuse to a relevant social worker or the police."

Baroness Greengross (CB) [V]: My Lords, in moving Amendment 83, I will speak to Amendment 84. I am introducing these two amendments again on Report as I believe the issue they seek to highlight regarding older adults needs considerably more attention than it has received to date. After a helpful meeting with the Minister last week, I will not now be putting these amendments to a Division. However, I would like to raise a few important points.

At earlier stages of the Bill, I cited polling data from Hourglass—formerly called Action on Elder Abuse—conducted in 2020 which found that one in six adults over the age of 65 has experienced some form of abuse. That is 2.7 million older people in this country who have experienced abuse. Yet despite this, the abuse of older people is not taken seriously by many. Older people are victims of physical, financial, sexual and psychological abuse, and many others suffer abuse due simply to straightforward neglect.

These two amendments, debated in Committee and debated again today, are by no means the only measures that could or should be put in place to safeguard against the abuse of older adults. But both Amendment 83, which places a duty on local authorities to report suspected abuse, and Amendment 84, which gives registered social workers the powers to enter a private residence to investigate suspected abuse, are concrete steps to improve the reporting and investigation of this often horrendous crime.

Amendment 83 would reinforce existing safeguards practised by local authorities and duties of care detailed in the Care Act 2014. The draft statutory guidance that the Government intend to issue once the Bill gains Royal Assent places a greater duty on local authorities to support victims of abuse.

The intention of this amendment is to ensure greater consistency throughout the country with regard to the reporting of suspected abuse. At present, some authorities have robust processes in place to address this, while, sadly, others do not. Critical to this working will be a stronger emphasis on training and learning to identify potential signs of domestic abuse. Also, it is important that joined-up working between local authorities and other relevant agencies occurs throughout the country to ensure a co-ordinated and swift response where there is suspected abuse.

Amendment 84, concerning powers of entry for registered social workers, addresses the fact that at present, powers of entry are given to the police only where life and limb are at risk. This life and limb threshold is far too high. The proposal would bring England in line with legislation in both Scotland and Wales, where social workers have powers of entry. While obstruction of social workers is rare, stronger processes need to be in place where suspected abuse cannot be investigated.

There needs to be a balance when considering these issues and many would be wary of expanding powers of entry too far. But again, when 2.7 million older people have experienced abuse and in most cases the abuse is not even reported, it is not acceptable to say that the status quo is working. Obviously, it is not.

I had the opportunity to meet with the Minister the noble Baroness, Lady Williams, last week regarding these two amendments. The discussions we had were constructive, and she indicated that the Government are willing to do more work in this area to strengthen safeguarding against abuse of older people. I eagerly await her response or the response of the other Minister at the conclusion of the debate, which I hope will address the points I have made today.

The Deputy Speaker (Lord McNicol of West Kilbride) (Lab): The noble Lord, Lord Naseby, has scratched, so the next speaker will be the noble Lord, Lord Rooker, and the noble Lord, Lord Hunt, will follow the noble Baroness, Lady McIntosh.

Lord Rooker (Lab) [V]: My Lords, I think I heard the noble Baroness, Lady Bennett of Manor Castle, say "bearing in mind the time of day" three times. I will say it only once: bearing in mind the time of day, I rise to support the noble Baroness, Lady Greengross. I spoke briefly on this in Committee. She is quite right not to press this to a vote. Notwithstanding the lateness of the hour or where it is in the Bill, more work needs to be done. I was not present, but I would be very pleased to learn the outcome of the meeting with the Minister. As I said in Committee, while I support the general thrust of both amendments, I could nitpick my way through some of the detail.

My central point, particularly in relation to Amendment 84, is that, like some of the other amendments we have debated today, it sends an incredibly powerful message to perpetrators. At the moment this problem is behind closed doors and not taken seriously among older people, notwithstanding the results of the polling that the noble Baroness, Lady Greengross, gave—which is pretty bad, of course. I can remember constituency cases in which similar kinds of things happened but it was always difficult to nail down, given the age of the people involved. The fact of the matter is that abuse takes place. Social workers having the power to force entry—they would do it not on their own but only with the police present anyway; and, as the amendment says, it would mean they had already been refused entry—would be a message to the perpetrators.

It would be incredibly powerful if the Government were able to take forward the issue of older people and the abuse they suffer, simply because it is not highlighted. It is not politically sexy; it is a dark and closed area for many people. The noble Baroness, Lady Greengross, is absolutely right to bring the issue back on Report. It will not be the last time we hear of this. I look forward to a positive response from the Minister to be able to give some comfort to those involved and a bit of strategy to send a message so that those perpetrating know that more action can be taken. Of course, the idea is to stop them perpetrating the abuse.

Baroness McIntosh of Pickering (Con) [V]: My Lords, I thank the noble Baroness, Lady Greengross, for bringing forward Amendments 83 and 84 on Report. I congratulate her on the progress that appears to have been made, particularly in light of her meeting with the Minister, which is very welcome news indeed.

I say that because, in connection with Amendment 83, I know there was a certain reluctance on the Government's part to accept that this form of abuse against older people constituted domestic abuse. To a certain extent, I can understand that level of reluctance. I do not know what we would call abuse of an older person. If it is a younger person, the local authority acts in loco parentis in its responsibility for adult social care. This is, if you like, the reverse of "in loco parentis"; it is responsible for the adult social care for an older person. I believe progress has been made by these amendments being brought forward at this stage. It is absolutely essential that the local authority steps in in this way because, where no family members are available, the older person has no one else to turn to but the local authority acting in that capacity.

I also lend my support in principle to Amendment 84 for the reasons I gave in Committee. It is very important that we equalise the law as relating to powers of entry across the four nations of the UK. Subject to what my noble friend says in summing up this small group, I see absolutely no reason why we should be out of line with Scotland and Wales.

Finally, I ask my noble friend to give us a little more meat on the bones, since the noble Baroness, Lady Greengross, is not pressing these amendments to a vote at this stage. Could we have a few more details of what government action is proposed, the direction of travel and, ideally, a timetable?

10.45 pm

Lord Hunt of Kings Heath (Lab) [V]: My Lords, I am also very glad to support the noble Baroness, Lady Greengross, in her Amendments 83 and 84. She has been such an extraordinary campaigner for older people and, years ago, she brought the abuse suffered by them to national and international attention.

We have made considerable progress. The acceptance of the amendment of my noble friend Lady Lister means that the offence of "controlling or coercive behaviour" under Section 76 of the Serious Crime Act 2015, which originally covered only behaviour by a family member when they are living with their victim, will be amended so that it applies to "controlling or coercive behaviour" by a former intimate partner that takes place post separation, or by a family member who does not reside with the victim. This is real progress for old people suffering from abuse.

However, there is an argument for going further. I will reflect back on the words of wisdom of Gary FitzGerald, formerly CEO of Action on Elder Abuse, who stated that:

> "Older women can have a higher level of physical, emotional and particularly financial dependence on perpetrators, and will often have experienced the abuse for a much greater period of time. It is those psychological and emotional relationships that are crucial in considering coercive control ... The people who primarily abuse older people are their own families—sons and daughters, nieces and nephews, and grandchildren. They exploit family relationships, and this can often continue after the intervention of statutory services."

The argument put forward by the noble Baroness, Lady Greengross, is that you need her amendment to deal with these types of situations.

In Committee, the noble Baroness, Lady Williams, said:

> "Local authorities are well equipped to identify, investigate and address suspicions or cases of domestic abuse where the individual has existing care and support needs or is known through other means. There are mechanisms and clear professional responsibilities in place to ensure the safety of suspected or known victims."—[*Official Report*, 10/2/21; col. 404.]

She was not convinced that the amendments of the noble Baroness, Lady Greengross, would add value to "existing rules and processes". In a sense, this repeats an argument that the noble Baroness, Lady Williams, has used throughout the Bill: that practice is at fault, not the legislative structures. The problem is that, in relation to the issues raised by the noble Baroness, Lady Greengross, it is far too patchy, which is why we are using the Bill to raise issues and seek to get some

statutory provision. I know that she hopes for a positive response from Ministers, which is to be welcomed. However, it would be great to be able to finish the job, in a sense, and do everything we can to protect older people from the abuse that I am afraid they suffer all too often.

Baroness Hodgson of Abinger (Con) [V]: My Lords, I am pleased to speak to these amendments, so ably introduced by the noble Baroness, Lady Greengross. The hour is late, and I do not wish to add much to what has already been said. In Committee, I highlighted that:

"How we treat our vulnerable is a reflection of our society … We need a zero-tolerance attitude to abuse, whatever the age of those involved."—[*Official Report*, 10/2/21; col. 400.]

When we last debated this issue, the Minister said that local authorities are already equipped with the powers in Amendment 83 and that "the police and others" already have the right of entry in Amendment 84.

I agree with the noble Baroness, Lady Greengross, that, in spite of this, there are still problems. The elderly are among the most vulnerable in our society, and it is important that they are adequately protected. As such, I hope the Minister will be able to highlight today how protection for the elderly will be strengthened.

Baroness Burt of Solihull (LD): My Lords, this is one of the few amendments to the Bill that are intended to address elder abuse, and I commend the noble Baroness, Lady Greengross, for her years of campaigning for older people. Clearly, it is a big problem, with stark findings from the charity Hourglass that one in six adults over 65 has suffered some form of abuse, and 40% of this is financial abuse.

At previous stages the noble Baroness the Minister did not seem particularly sympathetic to these amendments, citing systems and procedures already in place for spotting and reporting signs of financial abuse in local authorities. But in her subsequent letter to the Minister, the noble Baroness, Lady Greengross, counterchallenges that duties under the Care Act 2014 are not implemented consistently by local authorities. I wonder if the noble Lord the Minister recognises this picture. Would he be willing to commission some investigation to check this out? I was mollified by the words of the noble Baroness the Minister in Committee, but now I wonder.

Regarding powers of entry, the Minister expressed concern in Committee that social workers are not trained for effecting entry and may be putting themselves in harm's way. In her follow-up letter, the noble Baroness, Lady Greengross, counters that it is naive to imagine that social workers are never in harm's way and are unused to facing confrontational situations in the course of their job anyway. In the letter, she says that

"powers of entry are only given to the police in cases where 'life and limb' are at stake."

So there appears to be a gap between police powers to act and refusal to allow entry to the social worker by a suspected controlling abuser.

The noble Baroness compares safeguarding powers in Scotland and Wales to those in England and finds them wanting. Would it not be possible to look at this again? I would be very interested to know how often powers to enter are needed and sought. I hope the Minister can enlighten the House so that we might understand the scale of the problem. On the one hand, we have the evidence of Scotland, where the knowledge that the social worker has the power to enter creates an expectation that they may enter, as mentioned by the noble Lord, Lord Rooker; but on the other, there is the risk to the social worker to consider, as outlined by the noble Baroness the Minister. I am a bit more ambivalent this time around, and I look forward to hearing what the noble Lord the Minister has to say.

Lord Rosser (Lab) [V]: Amendment 83, moved by the noble Baroness, Lady Greengross, would require a local authority to ensure that, where any of its employees suspects in the course of carrying out a financial assessment for adult social care that a person is the victim of domestic abuse, the employee reports the suspected abuse to a social worker or the police. Amendment 84 would give a magistrates' court the power to permit a registered social worker to enter a premises by force if the social worker has reason to believe an occupant may be a victim of abuse, and they have been refused entry by other occupants.

We are of course very much of the view that everything must be done to reduce the incidence of domestic abuse, not least domestic abuse against older people, who can be particularly vulnerable and against whom such abuse can be even more of a hidden crime than abuse experienced by younger people. I pay tribute to all the work that the noble Baroness, Lady Greengross, has done over many years on behalf of older people to ensure that their interests and concerns are not overlooked and forgotten.

A statutory duty under the Care Act 2014 already exists on local authorities to make inquiries where they suspect abuse, although apparently performance on this varies considerably. Ensuring that employees can recognise the signs of domestic abuse, and then report it, is a training issue, and we have already had debates on the importance of training, led by my noble friend Lady Armstrong of Hill Top, when certain assurances were given by the Government. Reporting abuse, what happens to investigate and deal with it once it has been reported, and the priority it is given, are crucial. A key factor is multiagency working and ensuring that an awareness of abuse runs through every agency. It is crucial that this is monitored effectively to ensure that it is working properly.

The noble Baroness, Lady Greengross, said that she does not intend to press her amendments to a vote, following discussions with the Government, presumably in the light of what was said by the Government during those discussions. I presume that in their response the Government will refer to any undertakings that they have given, and I am sure that the noble Baroness, Lady Greengross, will not be the only one monitoring the impact of any such undertakings.

Lord Parkinson of Whitley Bay (Con): My Lords, I am grateful to the noble Baroness, Lady Greengross, for further highlighting the plight of older victims of domestic abuse, and for tabling amendments which

[Lord Parkinson of Whitley Bay]
seek to tackle these important issues. I am replying on behalf of my noble friend Lady Williams of Trafford, who I know found their discussion on the matter last week extremely helpful.

The Government are committed to preventing and reducing the risk of harm to people in known or suspected vulnerable situations. An effective adult safeguarding system which works across agencies to identify incidents or risk of harm, as well as acting on and ultimately preventing them, is central to this. We take the issues that the noble Baroness has raised very seriously and know that a well-trained and empowered adult social care workforce will be vital in tackling them. Social work is the lead profession for adult safeguarding duties under the Care Act 2014 and the Government are committed to ensuring that those working in it are well informed and trained to carry out their roles effectively. For this reason, the Chief Social Worker for Adults is developing a practice guide to support adult safeguarding teams within local authorities, to ensure a consistent and person-centred statutory response and quality safeguarding of adults with care and support needs. This guide will be consulted on and published this year.

We have considered Amendments 83 and 84 further and do not believe that they will add value to existing roles and processes, or that they are needed to improve outcomes for older people experiencing domestic abuse. In relation to Amendment 83, all local authority employees are expected to undertake safeguarding training, ensuring that they can identify any concerns of elder abuse and report these through existing escalation routes where necessary. In some instances, this may require making a report to the police, or making a referral under Section 42 of the Care Act 2014, which places a duty on a local authority to make inquiries, or to ask others to make inquiries, where it reasonably suspects that an adult in its area is at risk of neglect or abuse, including financial abuse.

On Amendment 84, the police have existing powers of entry ensuring the protection of victims of domestic abuse and other instances of exploitation and harm. These existing powers are sufficient and appropriately given to the police, who are well equipped to respond to threats from perpetrators of domestic abuse and to gain entry to a home where necessary. Extending powers of entry to social workers risks placing them in potentially unsafe and harmful situations which they are not equipped to deal with. It would also not be appropriate for a social worker to have powers that extend beyond their remit of supporting people with care and support needs, and they would not be trained to respond in these circumstances. Local arrangements will be in place to enable effective joint working to investigate instances where an adult must be safeguarded, which would include the police, health and social care professionals, and providers.

I also point to Clause 73, which enables the Secretary of State to issue guidance relating to the definition of domestic abuse. The draft guidance recognises that older people can be victims of domestic abuse and that they may experience this abuse differently. This guidance is intended to support all responding agencies to understand domestic abuse. Indeed, under Clause 73, any person exercising public functions to whom guidance is issued must have regard to the guidance in carrying out those functions.

11 pm

We will be publishing the updated statutory guidance in draft for a formal consultation shortly after Royal Assent. We would welcome the noble Baroness's engagement on the guidance, as well as that of the specialist organisations advocating for older victims, such as Hourglass. My noble friend Lady Williams has asked me to say that she would be more than happy to put the noble Baroness, Lady Greengross, in touch with her officials working on the issue.

In addition, Part 4 places a duty on tier 1 local authorities to provide support within safe accommodation for victims and their children. We have been clear in the statutory guidance to accompany Part 4 that victims and their children with relevant protected characteristics, as set out in the Equality Act 2010, must be able to access the support that they need. Under this duty, we expect authorities to ensure the appropriate and adequate support within safe accommodation that meets the needs of all victims, including those with relevant protected characteristics and/or multiple complex needs, and those whose support needs might not be able to be met within more general domestic abuse safe accommodation, such as victims over the age of 65.

We recognise the importance of ensuring that existing processes and practices are robust enough to offer protection to people at risk of or experiencing elder abuse. We also know that Covid-19 has presented new and, in some instances, heightened existing challenges in the adult safeguarding system. There is work under way across government and across health and social care partners better to understand and tackle these issues during and beyond the pandemic.

As I have indicated, there is work under way to improve the quality of practice within adult safeguarding teams, undertaken by the Chief Social Worker for Adults. Although we do not think that it is necessary to take forward Amendment 84 at this time, we will have conversations with interested parties and others to understand whether adult social workers feel empowered within their existing duties and powers, and whether there is anything further that we can do to support them in carrying out their important roles to support known or suspected victims of domestic abuse.

I hope that setting that out from the Dispatch Box this evening, as well as in the helpful meeting that the noble Baroness had with my noble friend, will be enough to reassure the noble Baroness that existing practices and processes are in place to identify and tackle domestic abuse, including instances of elder abuse, and that the Government are committed to improving them. Therefore, I hope that she will be willing to withdraw her amendment.

Baroness Greengross (CB) [V]: My Lords, I thank the Minister for his response. I believe that the Government have taken onboard many of the points that I and others have raised in today's debate. I welcome the opportunity to have input into statutory guidance that will be issued once the Bill receives Royal Assent. It is

particularly important that Hourglass, as the leading charity in this area, can also have input into the guidance to local authorities on identifying and reporting suspected abuse and how they can best support older victims of this often horrific crime.

On the issue of power of entry, I remain of the view that the legislation in Scotland and Wales allowing social workers to enter a property to investigate suspected abuse where access has been blocked is the right approach. We might need to look at this again at a later date.

Further, I believe that the current "life and limb" threshold for the police to enter a property is too high; it makes it harder to investigate suspected abuse. But I do agree with the Minister that having joined-up work across agencies when responding to domestic abuse is essential. There needs to be a joined-up approach in responding to incidents where attempts to investigate abuse are blocked or frustrated. If the joined-up working approach proposed by the Government can address this issue satisfactorily, that would be a positive outcome. If social workers' entry to people's homes in cases of suspected abuse continues to be frustrated and the law proves inadequate to address that, I am sure that, at some future date, the issue of powers of entry will once again be debated in your Lordships' House and appropriate measures taken to deal with it.

Regarding today's debate, I thought the noble Lord, Lord Rooker, was absolutely right not to press a Division. More work needs to be done to look in detail at certain issues. We need a powerful measure to deal with perpetrators. Knowing that a social worker was coming might change behaviour. It will not be the last time we hear about this, because we may have to bring it back, so I thank the noble Lord for his contribution.

The reluctance of the noble Baroness, Lady McIntosh, to accept that this is a form of abuse worries me somewhat. It is essential that local authorities step in, but I know she agrees with a power of entry similar to that in Scotland and Wales.

The noble Lord, Lord Hunt, brought this issue to national attention many years ago. I have done the same and we have joined forces quite often to argue for the same points. The argument to go further for older women who have higher dependence on the perpetrator is very important. Family members are the prime perpetrators, and we know that the practice is far too patchy.

The noble Baroness, Lady Hodgson, highlighted that how we treat vulnerable people reflects something in our society which we must look at in more detail again. The noble Baroness, Lady Burt, has tabled very important amendments that support elderly people and demonstrated the gap between the police and social workers. We need also to look at that again and at what goes on in Scotland and Wales, because I am sure we can learn from what they are doing.

The noble Lord, Lord Rosser, highlighted the fact that older people are particularly vulnerable to abuse, and the importance of training anyone coming in touch with them, whether they are trained social workers, family members or whoever is doing the caring role.

I thank the Minister, the noble Lord, Lord Parkinson, for taking on this rather difficult issue and for highlighting many of the points that I raised previously with him and today. So with my thanks I say that today I will not be pressing either of my amendments to a Division and therefore I beg leave to withdraw Amendment 83.

Amendment 83 withdrawn.

Amendment 84 not moved.

Amendments 85 and 86 had been withdrawn from the Marshalled List.

The Deputy Speaker (Baroness Garden of Frognal) (LD): We now come to Amendment 87. Does the noble Baroness, Lady Hamwee, wish to move the amendment?

Amendment 87

Moved by ***Baroness Hamwee***

87: After Clause 72, insert the following new Clause—

"Effective protection and support for all victims of domestic abuse

(1) The Secretary of State must take steps to ensure that all victims of domestic abuse, irrespective of their status, receive—

(a) equally effective protection against domestic abuse, and

(b) equally effective support.

(2) In this section—

"status" includes a status for the purpose of Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence and any combined forms of such status;

"victims of domestic abuse" includes persons who are reasonably believed to be at risk of domestic abuse."

Member's explanatory statement

This new Clause ensures all victims of domestic abuse are protected, regardless of their status, in line with Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

Baroness Hamwee (LD) [V]: I do wish to move it.

The Deputy Speaker (Baroness Garden of Frognal) (LD): Right. The Question is that Amendment 87 be agreed to. As many as are of that opinion will say "Content", to the contrary "Not-Content".

I have collected the voices, but the Division will have to be deferred, so voting will take place at a later stage.

Division on Amendment 87 deferred.

The Deputy Speaker (Baroness Garden of Frognal) (LD): I now call Amendment 87A in the name of the noble Baroness, Lady Benjamin.

Amendment 87A

Moved by ***Baroness Benjamin***

87A: After Clause 72, insert the following new Clause—

"Impact of online pornography on domestic abuse

(1) Within three months of the day on which this Act is passed, the Secretary of State must commission a person appointed by the Secretary of State to investigate the impact of access to online pornography by children on domestic abuse.

(2) Within three months of their appointment, the appointed person must publish a report on the investigation which may include recommendations for the Secretary of State.

(3) As part of the investigation, the appointed person must consider the extent to which the implementation of Part 3 of the Digital Economy Act 2017 (online pornography) would prevent domestic abuse, and may make recommendations to the Secretary of State accordingly.

(4) Within three months of receiving the report, the Secretary of State must publish a response to the recommendations of the appointed person.

(5) If the appointed person recommends that Part 3 of the Digital Economy Act 2017 should be commenced, the Secretary of State must appoint a day for the coming into force of that Part under section 118(6) of the Act within the timeframe recommended by the appointed person."

Member's explanatory statement

This amendment would require an investigation into any link between online pornography and domestic abuse with a view to implementing recommendations to bring into effect the age verification regime in the Digital Economy Act 2017 as a means of preventing domestic abuse.

Baroness Benjamin (LD) [V]: My Lords, I beg to move Amendment 87A in my name and that of the noble Lord, Lord McColl. I thank the Minister for the meeting that she kindly arranged for the noble Lord, the noble Baroness, Lady Healy, and I to discuss my amendment.

This amendment is an interim measure directed at the provision for the protection of women and children in relation to online pornography before the introduction of the online harms Bill. I am overwhelmed by the support I have received for the amendment from many charities and organisations, especially over the weekend. It is certainly engaging with a very real point of public concern that has been thrown into sharper focus by recent events. Sarah Everard's legacy must be that she died in order for change to happen. Women's actions across the country have shown that they want change.

Before we remind ourselves what Part 3 of the Digital Economy Act would be doing today had it been implemented, it is important to be clear in the first instance about the relationship between the consumption of pornography and violence against women. Noble Lords will remember that the noble Lords, Lord Alton and Lord McColl, and I drew attention in Committee to the Government Equalities Office's research, which was published on 15 January and demonstrated the clear association between pornography consumption and male aggression.

The Government's handling of this research causes me huge concern because, although it is clear from the front cover that it was ready for publication in February 2020, it was not published until a year later. In July, when asked about that during the consideration of this Bill in another place, the Minister implied that the research was ongoing when, in reality, it had been completed for months. Further, even though noble Lords asked about the research at Second Reading, they were not informed of its publication in the Government's letter to Peers, dated 26 January.

My concern increased greatly when I received a letter from the Government last week. It stated:

"The reports make it clear that there is not one single factor that leads someone to engage in harmful sexual behaviour, rather it is a combination of factors which interact with one another to differing effects on each individual. The literature review highlights that a direct causal link cannot be established between pornography and harmful sexual behaviour as this would require impractical and unethical study conditions (forced exposure to pornography)."

I find this response quite extraordinary. First, no one has ever sought to argue that pornography is the only issue. It is obviously one factor among others, but the fact that it is not the only factor does not justify questioning attempts to address it. Secondly, as the letter itself concedes, proving causation is obviously impossible. Rather than deflecting the significance of the research's findings by talking about its failure to do something it could never do, surely the Government's responsibility is to look squarely at what the research does show—namely, that there is a clear association between pornography consumption and sexual aggression and violence. Surely this merits immediate action.

I am delighted that We Can't Consent To This, the campaign group that has become such an inspirational and important voice for women on this issue, wrote to noble Lords calling on this House to vote for my Amendment 87A. In its briefing, it states:

"Our findings suggest a strong association between extreme pornography consumption and the incidence of sexual violence. Of the 3.6 million UK women who have been sexually assaulted, most of the men who do it say they were influenced to do so by porn."

To this end, they call on noble Lords to support my amendment.

Another significant organisation campaigning for this amendment is CEASE, the Centre to End All Sexual Exploitation. It highlights the urgent need for greater awareness of widespread violent content on porn sites and its real-world consequences. It too calls on Peers to vote for Amendment 87A, stating that in the light of the horrendous and tragic case of Sarah Everard and the outpouring of experiences of harassment, abuse and violence shared by women since Sarah's case because public, we have a duty to address factors associated with violence against women. Porn consumption is undoubtedly one of these.

11.15 pm

I am also delighted that Women's Aid is supporting my amendment as it upholds its desire to protect women against violence. Over the weekend, I read with huge concern an article in the *Evening Standard* written by a woman who was subject to a sexual attack in London on the same night of Sarah Everard's disappearance. The author is just one of many women who have stepped forward to share their stories in the last few days.

Leading expert Mary Sharpe from The Reward Foundation wrote over the weekend that it is becoming clear that, since the arrival of broadband in 2008 and

the easy access to pornography via smartphones, we have witnessed radical changes in behaviour in our society. If we are to put a halt to the increase in violence, we must understand what impact technology is having on brains and behaviour. In 2018, based on the weight of evidence, the World Health Organization introduced a new category—compulsive sexual behaviour disorder—to its international classification of disease.

Research shows that around 80% of people seeking treatment for this disorder have reported an inability to control their use of pornography, despite negative consequences. Some sufferers are as young as 16. Researchers at Cambridge University found changes to brain structure and functions in compulsive porn users. They found that porn users' brains responded to images of pornography in the same way as cocaine addicts respond to cocaine, and that addiction-related brain changes impair the ability of a user to put the brakes on an impulsive behaviour. For some compulsive porn users, that means the inability to control violent outbursts.

Having looked at the association between pornography consumption and male aggression, we should now remember where we would be today had the Government implemented Part 3 of the Digital Economy Act as planned in 2019. There would have been two crucial consequences. First, we would have an operational regulator charged with taking robust action against any website, regardless of where in the world it is located, that is accessible in the UK and shows what is under UK law the most violent category of online pornography—extreme pornography which is realistic, involves severe injury and an act that threatens a person's life. This has nothing to do with age verification and would help to protect women.

Secondly, under-18s would be protected from accessing porn websites through age verification. This constitutes a critical investment in the future to limit incidences of domestic violence going forward. It means that as children move into adulthood, they will be less likely than they are today to have been exposed to violent pornography which fosters the expectation that violence is a natural form of sexual relationships.

If the Government had followed through on the will of this House and implemented Part 3, today we would enjoy two major protections from the impact of the association between pornography consumption and male aggression and sexual violence. It is utterly tragic that, having demonstrated such wisdom and vision on these issues between 2015 and 2018, the Government misjudged things so spectacularly in 2019. It makes them look so out of touch, especially at this moment when we see such an outpouring of concern about women's safety and the implication of pornography use in those safety concerns.

I have always accepted that the Government eventually intend to address pornographic websites, alongside other online harms, through the online harms Bill. I have said it before, and I will say it again: I welcome the online harms Bill and the ambition to address other online harms, including pornography on social media. However, there is a huge problem with the idea that we can now forget about Part 3 and wait for the online harms Bill because, without doubt, there will be consequences for women and children. Today we have the opportunity to protect women and children in relation to pornographic websites in the interim period between now and when the online harms Bill is ready. This is why I am moving my Amendment 87A.

I have to say that I have found the Government's response to me on this extraordinary. Their letter stated:

> "As an indication of the potential timescales involved, the implementation period for Part 3 of the 2017 Act took over two years, following Royal Assent in April 2017 to the proposed commencement date of 15 July 2019. Such a two-year lead in time would run into the Online Safety legislative process".

This suggests that one would have to go back to the drawing board with completely new legislation and guidance. Of course, we could—but if we are concerned about keeping women safe and this interim measure previously satisfied the officials at DCMS, I think we can be sure that, whatever its faults, it is better than nothing, which is what we have at the moment.

This is surely a Sir Humphrey moment if ever there was one, which noble Lords can see through. On one hand, we are asked to believe that implementing existing legislation would take far longer than we need it to; on the other hand we are told that the development of the online harms Bill will happen at a record-breaking speed, as we rush through pre-legislative scrutiny and as the Bill then gallops through both Houses and on to Royal Assent.

The difficulty we all have in believing this is that when the Government said they would not implement Part 3 in October 2019, they promised that the Bill would be delivered last year. It is already March 2021, and we still have no sight of this elusive legislation. Even if it was published and had its First Reading tomorrow, we would still be presented with a longer wait for protection in relation to pornographic websites than if the Government were to announce instead that they would begin to implement Part 3 tomorrow.

Furthermore, the Government have also made it clear that they will address pornography through secondary legislation, which would have to be developed after the primary legislation and then be implemented as well. We were not born yesterday. The notion that it would take a similar amount of time to introduce, pass and implement one piece of legislation as it takes just to implement another which has already been passed is self-evidently nonsensical.

If the Government want to point back to the Digital Economy Act precedent, then so will I. Between the publication of the Digital Economy Bill and the passing of attendant secondary legislation, three and half years elapsed. Let us be clear: the fact that we might get to debate the online safety Bill this autumn—if it is published, rushed through pre-legislative scrutiny and comes to the Lords first—will not change the fact that any protection that it and its secondary legislation afford will not be felt for years. If the Government recognise the urgent need for action, they could redesignate the BBFC as regulator and use the guidance and secondary legislation that Parliament has already approved, and we could feel the benefits of Part 3 in three months—by this summer.

[Baroness Benjamin]

I know that the BBFC is not the Government's preferred long-term regulator. This is a role for Ofcom, but it would be a huge political misjudgment to deny women and children the protection of Part 3 in the interim just because they do not think the BBFC would be quite as good as Ofcom. I believe that it is much more important that women and children should receive protection than condemning them to having none. The BBFC could carry out this role over the next three years and then hand it over to Ofcom when the online harms legislation is ready.

I know that Part 3 does not address pornography on social media. I argued many times in our debates on the Digital Economy Bill that it should be included, but it would be absurd to attempt to justify on that basis not introducing the protections that can now be implemented in relation to pornographic websites. We must introduce protections in relation to pornographic websites now and add in social media as soon as the new legislation is ready. If we wait for the online harms Bill, we will condemn women and children to a less safe second half of 2021, all of 2022, 2023 and perhaps even 2024. I hope that the Government care as much about the damage that pornographic websites will do over the next three years as I do. The same can be said for many members of the public and campaign organisations. There is only one thing worse than not protecting children and women in 2021, 2022 and 2023, and that is having the capacity to implement Part 3 of the Digital Economy Act and simply not bothering to do so.

Without resorting too deeply to technical jargon, the assertion in the Minister's letter regarding the advent of DNS over HTTPS is not credible, and the noble Lord, Lord Browne of Belmont, will address this point in more detail in his speech. The notion that age verification is a threat to personal privacy, which has been put forward by the noble Lord, Lord Paddick, and others is outdated, incorrect and ill-informed because technically no personal information will be shared on porn sites at all, as the Age Verification Providers Association has demonstrated.

I have connections with PSHE associations and I believe in the best possible PSHE provision for children. Those associations also support this amendment and age verification. While we owe children great PSHE, we also owe it to them to make it less likely that they will be exposed to violent online pornography between now and when the online harms regime is ready.

I will conclude with the briefing on my amendment from the organisation, We Can't Consent To This. It argues for the implementation of Part 3 so that we have a regulator to take action against websites that show extreme pornography. That would help foster an environment that is less hostile to women and would make domestic abuse less likely. This is not the time to mess about. We have to stop creating a conveyor belt of sexual predators who commit violence against women and girls. The eyes of the country are on us to see whether we understand what is going on. It has been great to hear that the Prime Minister, Boris Johnson, wants to see action to protect women from sexual harassment and violence. My amendment would give him and the Government an opportunity to do just that.

If the Government are able to make a commitment today to implement Part 3 as an interim measure to protect women and children in 2022 and 2023, I will withdraw this amendment. If they cannot do that, I will divide the House. I beg to move.

Baroness Scott of Bybrook (Con): I remind noble Lords that we would like to finish this group of amendments by midnight tonight. If noble Lords can be as brief as possible, that would be helpful.

Lord Mackay of Clashfern (Con) [V]: My Lords, I shall take that advice seriously, and fortunately I can be brief because this whole area has been clearly and cogently explained by the noble Baroness who has proposed this amendment. I am pleased to speak in support of it and I shall do so in a summary way to cover the main points. I remind noble Lords that it is the first responsibility of the Government to do all they can to keep our people safe. In that connection, there is no group more important than our children and young people.

The Government have recognised that harm can be done to our people online and are preparing legislation to deal with that—not an easy task. I have seen some of the efforts put forward so far, but on the statute book since 2017 there is legislation to protect children. It also creates a regulator with power to take robust action against any website showing illegal extreme pornography, which will help create a less hostile environment for women.

11.30 pm

It is notable that our present Prime Minister has responsibility for that legislation, because he was a member of the Cabinet when the 2017 legislation went on to the statute book. Accordingly, he has the honour of promoting this along with his colleagues in government at that time. As we have just heard, he has asked that something be done to protect women who walk in the street in the evening—often a risky and adversarial business.

The legislation also creates, as has been said, a regulator with power to take robust action; this is important, because it can be brought into force very quickly if we use the BBFC as the regulator for the time being. Why refuse to do that? Why expose women and children to the danger that legislation prevents and the danger the population as a whole faces as a result of the absence of the regulator? We are preparing comprehensive legislation to deal with this subject and want Ofcom to be the regulator. That is all well and good, but however comprehensive, it cannot make good the damage presently occurring that the existing legislation would have prevented if in force.

The very sad events of the last days have shown the aggressive behaviour faced by huge numbers of women who have explained in detail the kind of conduct with which they have been confronted while walking along our streets. I have not heard, so far, any suggestion of how that can be dealt with. The committee dealing with this matter said that the Government must find a solution, and I think that so far the Government are still waiting for a solution. I suggest that the solution

is right here if we put into force the legislation passed by both Houses of Parliament with the full consent of the Government in 2017.

While the government research may not prove a causation, it shows a clear relationship between pornography consumption and a higher incidence of male aggression and violence against women. That seems absolutely clear, stated by the Government. Nobody is suggesting that that is the only possible explanation of some forms of sexually aggressive and violent conduct. However, it shows that there is a relationship, and that is sufficient to show that removing it could have a beneficial effect as a contribution to the remedy of this widespread difficulty that has been manifested in the last day or two across the whole of our country. As far as I have seen, nobody has suggested a way of dealing with that as yet, whereas this is a remedy to hand. It is not, of course, a complete remedy, but it may have some considerable effect in the meantime, while we await the Bill that is in preparation, which is more comprehensive in effect.

It is difficult to solve all the problems that that Bill raises. I cannot be sure when it will come forward and we have not had a guaranteed date yet, from anybody. In the meantime, we have a weapon that has some effect as a remedy, which protects children to a considerable extent. It is right to hand, so why not implement it now? I have sent a note of what I am saying to the Minister, to give good warning of what I had in mind. This is the situation as I see it: it is an extraordinary challenge to our Government that they have to hand a remedy that would be of some effect, at least, in this serious problem that has so clearly manifested as a result of the sad death in the last few days.

Baroness Grey-Thompson (CB) [V]: My Lords, I admire the continued work of the noble Baroness, Lady Benjamin, in putting forward this amendment. I have been inundated with requests from members of the public that I speak on this amendment, and express their strong support for it. One grandparent got in touch to tell me about the experience of their young grandchild and how they had been exposed to listening to another child talk about incredibly graphic violent pornography. Out of all the letters, this struck a chord with me.

I also thank We Can't Consent to This, the Click Off campaign and the Reward Foundation for spending time with me in the last year to talk me through some of the many issues related to pornography. Much of it was harrowing, especially around redefining the boundaries of consensual relationships.

Now is the time for the Government to take a positive step forward after not implementing Part 3 of the Digital Economy Act 2019. It is clear from the extensive research that there is a link between domestic abuse, general violence against women and pornography. The British Board of Film Classification has said that half of children aged 11 to 13, and 66% of 14 to 15 year-olds, have come across pornography. The noble Baroness, Lady Benjamin, raised social media. It is shocking how easy it is to find pornography after just one or two clicks away from someone an individual may innocently follow.

The evidence of how compulsive use of internet pornography can affect the brain and decision-making faculties of a compulsive user over time is something that we have to take seriously, but relatively little has appeared in the media about it and there are three reasons. The first is that substantial pornography use is relatively new and coincided with increased internet speeds around 2008. The second is that it can be hard to isolate one factor as a root cause. The third, and of most concern, is that the multibillion-pound pornography industry has financial reasons for keeping the public and politicians in the dark about the links between its product and health risks. The playbook that we now know was used by, among others, the tobacco industry to counter the message of a negative link between smoking and ill health was highly effective for a long time, and this is similar to the pushback that we are seeing now from a multibillion-pound industry that does not want to change.

Pornography is such a politically sensitive subject and a largely private activity that it stops many people discussing it publicly. The Government need to address this issue and I strongly support the amendment of the noble Baroness, Lady Benjamin.

Lord Browne of Belmont (DUP) [V]: My Lords, I am pleased to speak in support of Amendment 87A. I very much agree with what the noble Baroness, Lady Benjamin, said and do not propose to repeat it. I devote my speech to responding to the assertions made by the Minister in her letter of 8 March, in response to the debate in Committee. This seeks to justify not implementing Part 3 on the basis that

"recent technological changes could render Part 3 of the 2017 Act ineffective in protecting children if it were introduced as an interim measure. One of the Act's enforcement powers was the power to require Internet Service Providers to block access to material on non-compliant services. Changes to the architecture of the internet may make this power obsolete."

This has the feel of officials looking round for excuses not to implement Part 3 on at least three levels. First, one could be forgiven for concluding, on the basis of the letter, that IP blocking was the only enforcement mechanism for Part 3. It is actually one of three enforcement mechanisms so, even if it did not work, this would not make Part 3 ineffective. Secondly, the letter says only that IP blocking may not work at some point in the future—not that it does not work now or that there definitely will be a problem in future.

The reason the Government are concerned that blocking access to non-compliant websites may become problematic in future is because of a new way of navigating the internet, known as DNS over HTTPS, or DoH for short. It is not widely used at present but is likely to become more common in time. DNS stands for domain naming system; it is simply the phone book for the internet, allowing for translating the name of a website such as parliament.uk into its numerical address—in our case, 104.17.150.48. Presently, internet service providers are able to block access to particular websites simply by intercepting the query from a user wishing to access this telephone book. DoH encrypts those queries, making the current interception technology deployed by ISPs somewhat less capable of blocking access to non-compliant websites this way.

[Lord Browne of Belmont]

However, at some point in the process something has to connect the name of the site to its number, making blocking possible. In the case of DoH, this is an entity known as a DNS resolver, which is just another phone book but accessed securely. So the simplest solution, and the one the Government intend to use to block sites under the online safety Bill, is to instead turn to these resolver services and ask them to apply blocks, rather than the ISPs. The fact that this is how they intend to deal with the DoH enforcement challenge under the online harms Bill means that they should be able to deal with it that way under Part 3. But to fully appreciate why it is not remotely credible to argue that DoH constitutes a reason for not proceeding with Part 3, one must understand two further points.

First, even under DoH, ISPs still have the ability to determine which websites the user is visiting because not all aspects of the traffic are encrypted. As the well-respected online tech publication *ZDNet* states in an article on site blocking:

"ISPs know everything about everyone's traffic anyway. By design, they can see to what IP address the user is connecting when accessing a website. This IP address can't be hidden. Knowing the final IP destination reveals to what website a user is connecting, even if everything about his traffic is encrypted."

Research has shown that a third-party can identify with 95% accuracy to which websites users were connecting, just by looking at the IP addresses. Secondly, if DoH constituted a major long-term challenge, which I do not believe it does, for the reasons I have set out, it is not relevant to our discussion today because we are talking about using Part 3 only as an interim measure between now and when the online harms Bill is ready.

Another government concern with the Digital Economy Act is that it is specific in naming internet service providers in the section relating to site blocking, so Ministers were told they will lack the power to ask a resolver service to block pornography websites which fail to implement age verification. The Minister argued this in her letter to the noble Baroness, Lady Benjamin, when writing that a reference to internet service providers or similar is usually applied in the traditional sense, requiring the major internet service providers to block access to certain websites. But looking in detail at this legislation, the definition of an ISP is not left to tradition but based explicitly on the European Union definition of an internet access service, which means

"a publicly available electronic communications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used."

Indeed, the Minister went on to accept as much, conceding that the department's guidance to the regulator, coupled with the broader terminology of an internet access service used in EU legislation, may offer sufficient flexibility to extend the duty on internet service providers to cover other means of accessing the internet.

There is no credible technological reason why the Government could not implement Part 3 now as an interim measure. We would then have a regulator in place more quickly to take robust action against pornographic websites showing illegal extreme pornography that normalises rough sex practices and sexual aggression generally than if we just wait for the online harms Bill. In the context of current levels of concern about attacks on women, the failure to deliver this protection as quickly as possible would be to fundamentally misread the moment and would let women down. I hope that when the Minister responds she will announce that the Government now recognise that they must implement Part 3 as quickly as possible as an interim measure.

11.45 pm

Lord McColl of Dulwich (Con) [V]: My Lords, I am very grateful to the Minister for meeting the noble Baroness, Lady Benjamin, and me to discuss our amendment. However, while we were pleased to learn more about the long-awaited online harms Bill, we remained just as baffled after the meeting as we had been before as to why Part 3 of the Digital Economy Act should not be implemented now, as has been mentioned by other speakers. I will cut short what I was going to say because it has been said before.

In Committee I spoke about the evidence from the Government's own belatedly released reviews that clearly demonstrates a link between pornography use and the beliefs and attitudes of perpetrators of sexual abuse. In truth, there is extensive additional research that should be taken account of. That includes advances in neuroscience that have allowed us to understand that the brain is plastic and changes in response to the environment. Indeed, it is worth noting that the Government's research looked only at legal pornography use. One would expect the findings of research on illegal pornography use to be even more concerning.

Our environment has changed dramatically since the advent of broadband, which has allowed easy access to limitless amounts of free internet pornography, which is easily accessible to children and young people during a time when their brain is fast developing. When we consider this in the light of the evidence regarding the impact of pornography on adult brains, it is sobering. For instance, researchers at the University of Cambridge have found changes to brain structure and function in compulsive pornography users. Their brains respond to images of pornography in the same way that brains of cocaine addicts respond to cocaine. Moreover, there is evidence—of huge significance to the subject of domestic abuse—that the part of the brain that inhibits violent and impulsive outbursts is impaired when a person has an addiction. However, there is some good news, because that part of the brain can function again after a period of time after they quit the addiction.

It is extremely concerning that a study of adolescents shows that

"intentional exposure to violent x-rated material over time predicted an almost 6-fold increase in the odds of self-reported sexually aggressive behaviour".

Other research suggests that, for adolescent perpetrators of sexual violence,

"Links between perpetration and violent sexual media are apparent".

Moreover, we should not forget that the British Board of Film Classification's 2019 report on young people's use of pornography found:

"Beyond creating unrealistic expectations of sex, some young people felt pornography had actually affected their expectations of, and behaviour during, sex, particularly in the copying of "rough" or "forceful" sex seen in pornography."

In this context, the No. 1 priority must be to implement Part 3, as has been mentioned by several speakers. I know Part 3 does not deal with all online harms or address pornography on social media, but when the online harms Bill is eventually law, it will rise to those challenges. Part 3 addresses pornography websites; that is progress that the women and children of our country could benefit from more rapidly than they could from an unpublished online harms Bill. The Government have sought to argue that, notwithstanding the fact that Part 3 is already on the statute book, waiting for the online harms Bill makes sense. However—I say this very gently—that argument is beginning to look rather ridiculous and risks in the current environment making them look rather out of touch.

In the context of the current outpouring of concern about women's safety, it would be one thing to say, "We will address the challenge through unpublished legislation", if there was no other legislation to help do the job. Apart from a few new regulations, as has been mentioned, we have already passed primary legislation, which is "oven ready", to use a term favoured by the Prime Minister, to tackle websites showing extreme pornography. In the interim, the Government should use the oven-ready primary legislation rather than base their entire strategy on legislation that has not even been published, let alone gone through Parliament, and which is consequently far from oven ready. Given the urgency of this, they should redesignate the BBFC as the interim regulator, which would mean these protections could begin within months.

Consideration on Report adjourned.

House adjourned at 11.53 pm.