

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ASSAULTS ON EMERGENCY WORKERS (OFFENCES) BILL

Wednesday 15 November 2017

CONTENTS

Sittings motion agreed to.
Order of consideration agreed to.
CLAUSE 7 disagreed to.
CLAUSES 1 and 2 agreed to.
CLAUSE 3 agreed to, with amendments.
CLAUSES 4 to 6 agreed to.
CLAUSE 8 agreed to.
Bill, as amended, to be reported.

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

not later than

Sunday 19 November 2017

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The Committee consisted of the following Members:*Chair:* JOAN RYAN

- | | |
|---|--|
| † Bryant, Chris (<i>Rhondda</i>) (Lab) | † Lynch, Holly (<i>Halifax</i>) (Lab) |
| † Cadbury, Ruth (<i>Brentford and Isleworth</i>) (Lab) | † Merriman, Huw (<i>Bexhill and Battle</i>) (Con) |
| Crabb, Stephen (<i>Preseli Pembrokeshire</i>) (Con) | † Morton, Wendy (<i>Aldridge-Brownhills</i>) (Con) |
| † Elmore, Chris (<i>Ogmore</i>) (Lab) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| † Fitzpatrick, Jim (<i>Poplar and Limehouse</i>) (Lab) | † Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con) |
| † Ghani, Ms Nusrat (<i>Wealden</i>) (Con) | † Wragg, Mr William (<i>Hazel Grove</i>) (Con) |
| † Haigh, Louise (<i>Sheffield, Heeley</i>) (Lab) | Farrah Bhatti, Gail Bartlett, <i>Committee Clerks</i> |
| † Hurd, Mr Nick (<i>Minister for Policing and the Fire Service</i>) | † attended the Committee |
| † Jones, Gerald (<i>Merthyr Tydfil and Rhymney</i>) (Lab) | |
| † Lake, Ben (<i>Ceredigion</i>) (PC) | |

Public Bill Committee

Wednesday 15 November 2017

[JOAN RYAN *in the Chair*]

Assaults on Emergency Workers (Offences) Bill

9.30 am

The Chair: I have a few preliminary announcements. Will hon. Members please ensure that they have switched off or silenced all electronic devices? I remind them that tea and coffee are not allowed in the Committee Room, but removing jackets and ties is fine.

Chris Bryant (Rhondda) (Lab): I beg to move,

That, if proceedings on the Assaults on Emergency Workers (Offences) Bill are not completed at this day's sitting, the Committee shall meet on Wednesdays while the House is sitting at 9.30 am.

Ms Ryan, it is a complete and utter desire—[*Laughter.*] As you know, that is not the case. It has not started well, has it? It is a complete and utter pleasure to serve under your chairmanship. Now that you have said that we cannot have tea and coffee, I desperately want some—and because you said we could take our jackets off, I will not. The sittings motion is simply a preliminary that we have to adopt, otherwise we will not be able to meet again next week. I hope that under your brisk chairmanship, Ms Ryan, we will manage to complete our business today, but that is in the Committee's hands.

Question put and agreed to.

The Chair: The required notice period for amendments in Public Bill Committees is three working days, so amendments should be tabled before the House rises on Fridays for consideration the next Wednesday, but I encourage hon. Members to table them earlier if possible, should our proceedings go beyond today. I advise hon. Members that, as a general rule, I do not intend to select starred amendments that have not been tabled with adequate notice.

Chris Bryant: I beg to move,

That the Bill be considered in the following order, namely, Clause 7, Clauses 1 to 6, Clause 8, new Clauses, new Schedules, remaining proceedings on the Bill.

I have personally selected members of this Committee who can understand a sentence such as that, so there is no great need to say any more—except that it may seem slightly odd to bother to consider clause 7 first, for a reason that I shall come to in a moment. As Julie Andrews sang,

“Let's start at the very beginning,

A very good place to start.”

We are not quite going to do that, but none the less I think we will be hearing the sound of music by the end of the day.

Question put and agreed to.

Clause 7

FINANCIAL PROVISION

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

Chris Bryant: I should prefer to move that clause 7 should not stand part of the Bill, but that would be a disorderly motion, as all hon. Members—not least yourself, Ms Ryan—are aware. The only way of making it clear that I do not want the clause to stand part of the Bill is to say so while proposing that it does.

Clause 7 is known as an expenses clause. It was included at the time of the Bill's publication, because the question of whether the Bill's cost implications were such as to require a money resolution was not then settled. On the basis of information provided by the Government, the House authorities have now determined that a money resolution will not be necessary, so clause 7 is no longer required. I hope members of the Committee will therefore join me in voting against the question that clause 7 stand part of the Bill.

Question put and negatived.

Clause 7 accordingly disagreed to.

Clause 1

COMMON ASSAULT AND BATTERY

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

The Chair: With this it will be convenient to discuss clause 2.

Chris Bryant: We are getting to the meat of the Bill, Ms Ryan. I know that you are completely and utterly impartial, but you did volunteer to be a member of the Committee if you were not chairing it, so I am absolutely delighted that you are in the Chair today. I am grateful to everyone who has come along this morning, not least the two late additions, the hon. Member for Hazel Grove—

Michael Tomlinson (Mid Dorset and North Poole) (Con): Hear, hear.

Chris Bryant: And the hon. Member for Mid Dorset and North Poole.

Michael Tomlinson: Oh yes.

Chris Bryant: That sounded like applause for oneself. I would also like to put on record that the hon. Members for Rochester and Strood (Kelly Tolhurst) and for Louth and Horncastle (Victoria Atkins) were prepared to serve on the Committee. They have gone to great lengths in sucking up to the Government so as to be in the Government and therefore avoid being on the Committee. None the less, I am very grateful for the support that they have given. Before we get much further, I would also like to pay tribute to my hon. Friend the Member for Halifax, as in a sense I am midwife to, rather than the mother of, today's Bill.

Clauses 1 and 2 will, in essence, make two new provisions. The first, in clause 1, is for a new offence “of common assault, or battery, that is committed against an emergency worker acting in the exercise of functions as such a worker.”

Somebody convicted of such an offence on summary conviction could receive up to 12 months, a fine, or both. Somebody convicted on indictment could likewise receive up to 12 months, a fine, or both.

Michael Tomlinson: The hon. Gentleman may remember my intervention on Second Reading, in which I raised the same point that I am going to raise now. It seems slightly unusual for an offence on indictment and an offence on summary conviction to have the same sentence. I know the hon. Gentleman will have anticipated this question, which I will also put to the Minister, but I was slightly surprised not to see an amendment to the Bill. Could he explain his reason for that, and perhaps whether there is any comparable legislation where there is exactly the same sentence on summary conviction as on indictment? I should say that I fully support the Bill and am delighted to be a member of the Committee, even though I am a late addition, but I would like him to address that point.

Chris Bryant: When I was re-reading the Second Reading debate last night and remembered that the hon. Gentleman had joined the Committee, I thought it was just as well that he joined very late. Otherwise, he would have tabled an amendment to that effect, we would be debating it this morning, and I would have had to prepare for it.

The exegesis is simply that I was initially hopeful of a two-year maximum sentence on indictment. Obviously, in nearly every—in fact, in all—other cases, the sentence in a magistrates court is six months on summary conviction. That is what I had assumed that we would be proceeding with, but the Government were keener to go to 12 and 12. I hope that the Minister will be able to answer on that point later. I am enormously grateful for the support that the Government have given in making sure that the legislation is in good shape. There have been some tussles along the way, and we may want to return to the issue of sentence length on Report. I think there is still an argument for a maximum of two years for an offence, but others argue that that would be disproportionate when there are other offences that one could be convicted of that would attract sentences of anything between two and five years. Some people are arguing that that might be a more sensible route to go down when seeking to prosecute.

The new offence in clause 1 also applies to those who are off duty when they are performing the functions that they would have been performing if they were on duty. That is an important provision. Legislation in Scotland is similar but is far more complicated and difficult to use in prosecutions, and there have been instances where that has been used effectively as a loophole. It is also important to say that, as with all such legislation, the offence is not retrospective.

The second provision in clause 2 is the new aggravated offence in relation to seven sections of the Offences Against the Person Act 1861 and manslaughter, kidnapping and ancillary offences. I am glad to say that those ancillary offences cover quite a broad range of those who might be caught. This particular provision has

taken the model of the Criminal Justice Act 2003, which created an aggravated offence originally in relation to those perpetrating an offence in relation to somebody's sexual orientation or their disability, and was subsequently amended to include whether the victim was or was presumed to be transgender. That is a good parallel because, although it does not necessarily increase the maximum sentence available, it means that the court has to state the fact that this is an aggravated offence in open court. That will be of some comfort to quite a lot of emergency workers who have gone to court and seen the person get a minimal sentence with no reference to the fact that this was an aggravated offence. Secondly, it means the court has to consider that as increasing the seriousness of the offence.

I have heard people say that the court already has lots of other means of assessing aggravated elements of the seriousness of an offence, but those vary enormously from things such as the time of day to the vulnerability of the person and the venue and so on. It is important that we put this at least on a par with the provisions of the 2003 Act. Again, it would not apply retrospectively.

I hope that all hon. Members will support the inclusion of the two offences.

The Minister for Policing and the Fire Service (Mr Nick Hurd): I join the hon. Member for Rhondda in saying what a pleasure it is to serve under your chairmanship, Ms Ryan, I think for the first time in my case. If you will indulge me, may I also place on the record my admiration for the success that the hon. Gentleman has had so far with the Bill? Unfortunately, I could not attend Second Reading, so I could not place on the record my genuine admiration for his work. He is characteristically modest in describing himself as the midwife of the Bill, although I join him in congratulating the hon. Member for Halifax on her tireless work. Her speech on Second Reading was extremely powerful in helping to explain through human anecdote why such a Bill is necessary. I also join the hon. Member for Rhondda in congratulating the other sponsors of the Bill.

Having sat in the hon. Gentleman's shoes and taken a private Member's Bill through in my first Parliament, I also congratulate him on how he has managed the process and resisted many temptations and invitations to add baubles to the Christmas tree that is this Bill. The reality of these situations is that the more baubles you add to the tree, the more likely it is to fall over. This tree stands proud before us today because it has the right number of baubles on it, which is in large amount due to the discipline of the hon. Gentleman in seeking to pursue a Bill that is simple and coherent. He has done that and I congratulate him on it. That in large part explains why the Government are pleased to support the Bill, not least because it sends a clear message that assaults on emergency workers will not be tolerated.

As the hon. Gentleman made clear in his remarks, clause 1 creates a new form of common assault where the assault is on an emergency worker. An offence committed under those circumstances will be triable either way and will have on indictment a maximum penalty of 12 months in prison. That is double the current maximum penalty for the existing offence of assault. The new offence provides increased protection under the law for emergency workers who may be assaulted in the course of their day-to-day work.

[Mr Nick Hurd]

Such increased protection will also extend to situations where an emergency worker is not at work, but acts as if he or she was—for example, when an off-duty firefighter rescues someone from a burning building. The offence will sit alongside the existing common law offences of assault and battery but will be targeted at assaults against emergency workers. In the case of a more serious assault against such a worker, the existing offences of actual bodily harm and grievous bodily harm are likely to apply.

It is worth reiterating why we are creating a new form of common assault when perpetrated against an emergency worker.

Michael Tomlinson: I am sure the Minister heard my intervention. Perhaps he is answering it in his own way by explaining about other offences that sit alongside this one, but I wonder if he would directly address my point. I believe it is unusual for there to be exactly the same length of sentence for an offence that is tried summarily as for one that is tried on indictment. It may be that he is already answering that point, but I would press him slightly further on whether there is a specific explanation why the six-month and two-year sentences initially proposed have not found favour with Her Majesty's Government.

9.45 am

Mr Hurd: My hon. Friend is too generous; I was not actually answering his question, but I will attempt to do so now. His basic question is why does the maximum penalty seem to be 12 months in both the magistrates court and the Crown court? The maximum penalty is in fact six months in the magistrates court and 12 months if dealt with in the Crown court. The provisions of clause 1(4) make it clear that the provisions should be read as six months, to match the sentencing powers of magistrates. That is a drafting provision to take account of provisions in the Criminal Justice Act 2003 that have not been commenced. I hope that gives my hon. Friend some explanation. I am more than happy to tease that out in the Committee and during further proceedings.

I am keen to register the human dimension. The Second Reading debate was incredibly useful in drawing out, constituency by constituency, real human examples of the risks that our emergency workers take on our behalf and intolerable situations they find themselves in. We know those examples instinctively, but it is useful to bring the experiences together in such a debate. That is why the Bill is timely and right. I am sure every single member of the Committee would join me in expressing our gratitude and respect for our emergency workers. The statistics about the number of assaults across the range of emergency workers covered by the Bill are genuinely shocking, and the Second Reading debate brought that through very clearly. It is very clear to me and the Government that emergency workers deserve the full protection of the law. Tougher sentences for assaults on emergency workers send the clearest possible message that that such cowardly and despicable behaviour will not be tolerated.

On Second Reading, we listened to various suggestions for amendments. Concerns were expressed about whether the maximum sentence for the new form of common assault, where the assault is perpetrated against an

emergency worker, is harsh enough. An increase for the maximum penalty from six months to 12 months is exclusively for the lowest level of assault, which may not involve any injury, and the act constituting the offence can be as little as a push. The offences of actual bodily harm or grievous bodily harm are more likely to be used if the assault is more severe. Both those offences already have a maximum penalty of five years.

Members also raised the issue of which emergency workers were covered by the Bill. The original definition of emergency worker proposed would mean that many people working in or for the NHS, who are at risk of being assaulted because they have face-to-face contact with patients or other members of the public as a regular part of their job, would not be covered by the extra protections provided by the Bill. We want to ensure that all those working in or for our NHS, providing services directly to the public, who suffer an assault either in the course of doing their job or using their skills to provide emergency care to members of the public while off duty, are given equivalent protections to those working on the frontline in our emergency services. That definition will be considered in greater detail, I am sure, during our discussions.

Huw Merriman (Bexhill and Battle) (Con): Has the Minister assessed whether it makes sense for the Attorney General's powers relating to reviewing unduly lenient sentences to have some regard to the new offence? I say that because the new offence runs alongside existing offences. I do not wish to change the drafting of the Bill, but I ask the Minister follow how the offence develops, and in the event that the courts are not sentencing as we would like, perhaps he can look at whether the Attorney General's power should be enhanced to cover the new offence.

Mr Hurd: I thank my hon. Friend for that thoughtful intervention, which I recall he also made on Second Reading. I certainly undertake to discuss that point with colleagues at the Ministry of Justice and the Attorney General himself. My hon. Friend will recognise that what the hon. Member for Rhondda is doing through the Bill, which the Government support, is to put in place new measures that complement the existing legislation and send a strong signal to and through the system that we will not tolerate assaults on emergency workers. We are doing that both through the creation of the new offence and through the aggravating factor, which strengthens the hand of the system.

I was talking about how the scope of the Bill has shifted during the course of the debate. In addition to NHS workers, the original definition of emergency workers included prison officers and persons “(other than a prison officer) employed or engaged to carry out functions in a custodial institution”, but it did not cover those working in a situation in which a prisoner is being transported—for example, to court—by someone other than a prison officer. We believe it is important that those individuals are covered by the Bill. We will discuss that when we come to the relevant amendment.

Clause 2 creates an aggravating factor, as I signalled in response to my hon. Friend, which will apply to assaults that are not covered by the new offence of common assault against an emergency worker. The Bill places a duty on the court to consider assaults, which

include actual bodily harm, grievous bodily harm and manslaughter, committed against an emergency worker as an aggravating factor in sentencing. The offence will therefore be considered more serious and may merit an increased sentence within the maximum allowed for the offence. The sentencing judge must state in open court that the offence is so aggravated. Clause 2 puts the sentencing guidelines on a statutory basis, but with reference to a specific group of people—emergency workers—and for a specific list of assault and assault-related offences.

Chris Bryant: I do not think there is a great need to add to that. One point referred to on Second Reading was whether the complexity of the Scottish Act, in which there is a loophole relating to whether somebody is exercising their functions, would be replicated in this Bill, which will apply to England and Wales. Because of the way the Bill is drafted, I think we can be pretty confident that such a loophole will not exist. I do not think that there are any further issues that need to be addressed.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3

MEANING OF “EMERGENCY WORKER”

Chris Bryant: I beg to move amendment 1, in clause 3, page 3, line 24, at end insert—

- “(o) a prisoner custody officer, so far as relating to the exercise of escort functions;
- (b) a custody officer, so far as relating to the exercise of escort functions;”

This amendment would broaden the definition of “emergency worker” so as to include those who provide prisoner escort services (which include the delivery of prisoners to court and their custody whilst on court premises) and corresponding services in respect of persons detained in youth detention accommodation.

The Chair: With this it will be convenient to discuss: Amendment 2, in clause 3, page 3, line 29, leave out paragraph (h) and insert—

- “(h) a person employed for the purposes of providing, or engaged to provide—
 - (i) NHS health services, or
 - (ii) services in the support of the provision of NHS health services, and whose general activities in doing so involve face to face interaction with individuals receiving the services or with other members of the public.”

This amendment would broaden the range of health care workers included within the definition of “emergency worker” so as to include all clinical workers providing NHS services and support workers who have direct interaction with patients or the public more generally.

Amendment 3, in clause 3, page 3, line 34, leave out subsections (3) and (4) and insert—

“(3) In this section—

“custodial institution” means any of the following—

- (a) a prison;
- (b) a young offender institution, secure training centre, secure college or remand centre;
- (c) a removal centre, a short-term holding facility or pre-departure accommodation, as defined by section 147 of the Immigration and Asylum Act 1999;

(d) services custody premises, as defined by section 300(7) of the Armed Forces Act 2006;

“custody officer” has the meaning given by section 12(3) of the Criminal Justice and Public Order Act 1994;

“escort functions”—

(a) in the case of a prisoner custody officer, means the functions specified in section 80(1) of the Criminal Justice Act 1991;

(b) in the case of a custody officer, means the functions specified in paragraph 1 of Schedule 1 to the Criminal Justice and Public Order Act 1994;

“NHS health services” means any kind of health services provided as part of the health service continued under section 1(1) of the National Health Service Act 2006 and under section 1(1) of the National Health Service (Wales) Act 2006;

“prisoner custody officer” has the meaning given by section 89(1) of the Criminal Justice Act 1991.”

This amendment is consequential on Amendments 1 and 2.

Chris Bryant: Clause 3 defines an emergency worker. As the Minister has already adumbrated, on Second Reading concerns were expressed about whether the definition had been drawn too tightly. Consequently, amendment 1, which we could call the amendment of the hon. Member for Louth and Horncastle (Victoria Atkins), because she was the person who raised the issue on Second Reading, would add prison custody officers to the definition of emergency workers. That was supported on Second Reading by the Prisons Minister and subsequently by Justice Ministers and others.

Amendment 1 has to be read in conjunction with amendment 3. I have all the detail, if anybody wants it. I can go into each of the subsections of each of the Acts that we are referring to, but it ends up as quite a spaghetti junction of legislation. Amendment 3 specifies the meaning of the terms custodial institution, custody officer, escort functions and prisoner custody officer, via section 147 of the Immigration and Asylum Act 1999; section 300(7) of the Armed Forces Act 2006; section 81 of the Criminal Justice Act 1991; paragraph (1) of schedule 1 to the Criminal Justice and Public Order Act 1994; and section 89(1) of the Criminal Justice Act 1991.

I do not think anybody would have serious problems with those definitions but if Members would like to quiz me on them, I have all the gubbins ready.

Wendy Morton (Aldridge-Brownhills) (Con): Will the hon. Gentleman give way?

Chris Bryant: Oh dear. [Laughter.]

Wendy Morton: Fear not—I support the Bill. While we are discussing the definitions, although I have not tabled an amendment, a couple of specific points were raised in the Chamber on Second Reading about which I want to be absolutely certain. One was whether the Bill would cover the armed forces operating under Operation Temperer. Secondly, my understanding is that PCOs are covered, but I seek clarity on that. It is important to get the definition right. It needs to be tight enough to make the Bill good and workable, but not so tight that some of those other valuable emergency workers are excluded.

[Wendy Morton]

The hon. Gentleman might remember that I also talked in the Chamber about refuse collectors. I will not press that today, but in future, if this Bill works, there might be some scope to look further.

The Chair: It is an intervention not a speech.

Wendy Morton: Sorry, Ms Ryan.

Chris Bryant: I thought that was an admirably brief intervention, by my standards. The hon. Lady makes two very good points and one with which I disagree. The two on which I agree are that members of the armed forces effectively operating as emergency workers would be covered by the Bill, as would PCOs. I have no doubt about that.

My anxiety is that, if we extend the Bill to all public sector workers, such as refuse collectors, it would be difficult not to include housing officers and a wide range of others. I felt that the specific problem we have now relates to emergency workers and the dramatic rise in the number of incidents is significant. In addition, there is a moral imperative for us to stand by our emergency workers at such a moment. That is why I have resisted suggestions that we should spread further than what I consider to be emergency workers.

I will own up to the hon. Lady that there is one issue that I am not sure we have yet got right and that is in relation to St John Ambulance workers. Everybody thinks of a St John Ambulance worker as somebody who runs an ambulance service. On occasion they would be covered by the Bill, if it were enacted, because they would be commissioned by the NHS to provide ambulance services, or perhaps search services; however, in the mere provision of first aid services, they would not be covered. That could lead to an odd situation where an NHS ambulance was sitting immediately next to a St John ambulance at a football stadium and one set of people would be covered and the other would not. We may need to return to that. However, I do not want to open up to everybody who provides first aid services on a voluntary basis for every charity in the country because that would water down the provision in the Bill.

Huw Merriman *rose*—

Wendy Morton *rose*—

Chris Bryant: I will give way to the hon. Lady.

Wendy Morton: I will be brief. Does the hon. Gentleman agree that getting the definition and the Bill right will send a strong message to those who are not covered by the definition in the Bill that some of the behaviour we have seen, particularly spitting and biting, is unacceptable?

Chris Bryant: Yes. I know of housing officers who have to make very difficult decisions and they get a great deal of grief and often aggressive—sometimes physically aggressive—behaviour from potential clients in housing offices up and down the land. Of course, I do not condone any of that violence. I am glad to say that my local authority has very strong measures in place to ensure that all its staff are safe.

The Bill will not of itself end all the assaults and inappropriate behaviour. There is a duty of care on all employers, whether that is the police, the NHS, an ambulance trust or whatever, to ensure that their staff are safe. There are always measures they can put in place to ensure that. That is one of the reasons why the trade unions have played such an important role. Broadly speaking, nearly everyone we are talking about in this definition is unionised in some shape or form, although it is not quite the same with the police. The unions can play an active role in ensuring that staff are protected.

I do not know whether the hon. Member for Bexhill and Battle, who rose at the same time as the hon. Member for Aldridge-Brownhills, still wants to come in.

10 am

Huw Merriman: I did have a further point. I absolutely take into account the need to keep the Bill tight, because otherwise it loses its purpose, but I recall that a key point discussed on Second Reading—I used the statistics myself—was the number of assaults in hospitals, which in four years has risen from 59,000 to slightly over 70,000. What proportion of those 70,000 cases will be covered by the Bill? Those incidents are particularly prevalent in the accident and emergency side, but what about the vast proportion remaining? Would that be something that the Bill could look at in the future to ensure that all NHS staff are protected? Currently they are not.

Chris Bryant: Amendment 2, which I am about to speak to, would help substantially. The truth is that we do not know the precise statistic the hon. Gentleman is seeking. We might stand a better chance if we kept the provision in the NHS that gathers such statistics, but unfortunately that is being abolished, so we will rely merely on staff surveys, which are a less reliable means of obtaining information.

The good news is that amendment 2 would extend the definition of emergency worker to include all those providing NHS health services. Incidentally, I understand that the phrase “national health service health services” is slightly clumsy, but it is the only way that we could make it work. Amendment 3 specifies the provision of NHS health services, so amendments 2 and 3 have to be read together. The National Health Service Act 2006 and the parallel National Health Service (Wales) Act 2006 have a different way of defining NHS services from the one I suggested we would proceed with on Second Reading. I will read the definition from the Welsh version, because it is exactly the same as the English one, apart from the word Wales is used rather than England, and I am Welsh. It states:

“The Welsh Ministers must continue the promotion in Wales of a comprehensive health service designed to secure improvement—

(a) in the physical and mental health of the people of Wales, and

(b) in the prevention, diagnosis and treatment of illness.”

Members will acknowledge that that is a broad definition of the provision of NHS services that brings a large number of people into the ambit of emergency workers. If a nurse is working on a hospital ward and someone has a cardiac arrest, it would be difficult to argue that they should not be covered by the Bill. It is the same for a hospital orderly working in the building, taking someone down to theatre or whatever. I am delighted with the

way that the Government have helped redraft the Bill through amendment 2. I hope all Members will support amendments 1, 2 and 3 and ensure that clause 3 remains part of the Bill.

Mr Hurd: The Government not only accept, but welcome clause 3 and the amendments tabled by the hon. Member for Rhondda.

The clause, as the hon. Gentleman made clear, sets out the definition of emergency worker as it applies to the new offence of assault on an emergency worker and as it applies to the aggravating factor. The clause gives a list of occupations or groups of people, which broadly includes the police, prison officers, fire, rescue and search personnel and services, and those providing healthcare services. My hon. Friend the Member for Aldridge-Brownhills sought reassurance on police community support officers, and I confirm that the hon. Gentlemen was entirely correct in the reassurance that he gave.

The Bill focuses on people who have to deal with difficult people in difficult situations as part of their day-to-day job. That job exposes them to a degree of risk of assault and the Bill will give them increased protection in the event of such attacks. Although all the workers in clause 3 are defined as emergency workers, there is no requirement in the Bill that they must be responding to a specific emergency when an offence is committed against them.

We accept amendment 1, which brings those who provide prisoner escort services within the Bill's definition of emergency worker. That will ensure that the people responsible for escorting prisoners between prisons and courts and for guarding prisoners while they are at court are brought within the Bill's provisions. We believe it is right that they will be covered by the new offence of assault on an emergency worker and by the aggravating factor.

We accept amendment 2, which aims to widen the definition of emergency worker in the health sector for the purposes of the Bill and to ensure that we protect all those working on the NHS frontline. I thank my colleagues at the Department of Health for their co-operation with us. It is completely unacceptable for those providing healthcare in an emergency situation to be assaulted. However, many healthcare workers and those who support them, whose jobs involve regular face-to-face contact with patients, their relatives or other members of the public, are also vulnerable to assault while carrying out their duties. As has been pointed out, the statistics are genuinely shocking. It is only right that all those working on the NHS frontline are afforded the greater protections provided by the Bill.

I will briefly say something about those who work for first aid organisations, such as St John Ambulance, to which the hon. Gentleman referred. As we push the boundaries of the Bill, we get into difficult definitions and choices, which I am sure will be probed by Parliament as the Bill proceeds. Our view is that staff and volunteers who selflessly give up their time should be protected by the Bill if they are assaulted while providing a service under contract to the NHS. They may also fall within the scope of the Bill if the assault occurs while carrying out an activity that can be classed as a rescue. Those are the circumstances that currently we envisage as enabling

those staff and volunteers to be protected by the Bill, but I am sure that there will be views expressed on that as it proceeds.

We consider that this new, expanded definition strikes the right balance—balance is inevitable in these situations—and includes those who fit the definition of emergency workers for the Bill's purpose. However, we will consider any further proposals put forward by the hon. Member for Rhondda.

Chris Bryant: I am very grateful to the Minister for his words at the end. We will look at whether there are further means of tightening this up on Report, but there is not much else that needs to be said on this part of the Bill.

Amendment 1 agreed to.

Amendments made: 2, in clause 3, page 3, line 29, leave out paragraph (h) and insert—

“(h) a person employed for the purposes of providing, or engaged to provide—

(i) NHS health services, or

(ii) services in the support of the provision of NHS health services, and whose general activities in doing so involve face to face interaction with individuals receiving the services or with other members of the public.”

This amendment would broaden the range of health care workers included within the definition of “emergency worker” so as to include all clinical workers providing NHS services and support workers who have direct interaction with patients or the public more generally.

Amendment 3, in clause 3, page 3, line 34, leave out subsections (3) and (4) and insert—

“(3) In this section—

“custodial institution” means any of the following—

(a) a prison;

(b) a young offender institution, secure training centre, secure college or remand centre;

(c) a removal centre, a short-term holding facility or pre-departure accommodation, as defined by section 147 of the Immigration and Asylum Act 1999;

(d) services custody premises, as defined by section 300(7) of the Armed Forces Act 2006;

“custody officer” has the meaning given by section 12(3) of the Criminal Justice and Public Order Act 1994;

“escort functions”—

(a) in the case of a prisoner custody officer, means the functions specified in section 80(1) of the Criminal Justice Act 1991;

(b) in the case of a custody officer, means the functions specified in paragraph 1 of Schedule 1 to the Criminal Justice and Public Order Act 1994;

“NHS health services” means any kind of health services provided as part of the health service continued under section 1(1) of the National Health Service Act 2006 and under section 1(1) of the National Health Service (Wales) Act 2006;

“prisoner custody officer” has the meaning given by section 89(1) of the Criminal Justice Act 1991.”

—(Chris Bryant.)

This amendment is consequential on Amendments 1 and 2.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4TAKING OF SAMPLES UNDER THE POLICE AND
CRIMINAL EVIDENCE ACT 1984

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

The Chair: With this it will be convenient to discuss clauses 5 and 6 stand part.

Chris Bryant: As I am sure all hon. Members are aware, clauses 4, 5 and 6 relate to spitting and the taking of intimate or non-intimate samples. The reason for the clauses is clear: the incidence of people spitting at emergency workers has risen dramatically. Spitting may seem relatively innocent to some people, but it is perfectly possible to pass on communicable diseases by spitting. Often, an individual who has been spat at will not know for some considerable time whether they have contracted a particular communicable disease and will therefore be put through precautionary medical interventions that they would not otherwise have had to go through. We have all heard stories of false positives for various diseases being given to police and other emergency workers following that process.

Spitting is not just a question of saliva. Sometimes—if someone has been in a fight and lost a couple of teeth, for instance, and there is blood in their mouth—people spit an amount of blood. However, I want to make absolutely clear from the beginning, in case there is any doubt, that I do not believe that that has anything to do with HIV. It is my understanding, from all the medical evidence I have looked at and the advice provided by NHS England, NHS Wales and the World Health Organisation, that spitting does not transmit HIV, including when there is blood in the saliva. There is no evidence that that is the case. There has been some wild talk that it is, but it is not. I remember that there was a similar debate when I was a priest in the Church of England and people were concerned about taking communion wine. In actual fact, the combination of saliva, silver and alcohol was a good way of killing off the HIV virus.

Wendy Morton: I am grateful to the hon. Gentleman for giving way. I think he had an inkling that I may raise HIV. I accept his helpful explanation. Does he feel that there is a case for further guidelines to be provided with the Bill, particularly to help prevent unnecessary stigmatisation?

Chris Bryant: One of the delights of the past 20 years for me as a gay man, many of whose friends died in the early years of HIV, is that HIV is no longer seen as a death sentence. It is another medical condition. People have much more rational attitudes to it than they used to. That has been helped by significant senior figures, including in politics, such as Lord Smith—Chris Smith—being able to speak openly about their HIV status, and of course by dramatic changes in medication, which have transformed people's life chances. There may be some downsides to that in terms of whether people practise safe sex and all the rest of it, but the truth is that there is considerably less stigma than there was. As I said on Second Reading, I would be distraught beyond belief if I thought that the Bill would add to that stigma.

I am open to suggestions about whether there should be specific provision in the Bill to require NHS England or the authorities in Wales to make clear what is appropriate in relation to specific communicable diseases. It may be that we want to return to that on Report, but as I say, I am keen that clauses 4, 5 and 6 remain in the Bill. Our emergency workers should not be spat at, whether it is only saliva, saliva with blood, or whatever—they should not be. It is designed to be an assault, it is designed to be offensive and it is designed to make people fearful about whether they have contracted a communicable disease.

10.15 am

The one reason why I am slightly hesitant about a list of suitable communicable diseases is that diseases change. Who would have thought that one of the things that we are looking for in the modern era would be tuberculosis? Over the past five to 10 years, however, the number of instances of TB in the UK has risen, so it is one of things that we would be looking for today, if not what might first come to mind. The medical advice about hepatitis B and C has also changed over the years, so I want to maintain a degree of flexibility. I also assume that clinicians would be giving the right advice for the individual emergency worker who has been spat at in any particular set of circumstances.

I am keen to keep the clauses in the Bill, although I do not think anyone is arguing that they should be removed. It is important that we have not gone for a nuclear option of saying, “The state will be able to take intimate samples willy-nilly”—that would not be appropriate. We have amended existing legislation, the Police and Criminal Evidence Act 1984 and the Terrorism Act 2000, to provide expressly for emergency workers who have been spat at, making it clear that anyone unreasonably withholding an intimate sample—broadly speaking, blood—may be subject to a fine, but only a fine, and in such circumstances it would still be possible to take a non-intimate sample. For many of the communicable diseases we are talking about, only a non-intimate sample would be needed, so I very much hope that this measure will be used pragmatically, because that is how the legislation has been written—not in a grand ideological way, but pragmatically.

I hope that the legislation will send out a strong message: spitting is not on, and if people spit at an emergency worker they could be subject to a fine if they unreasonably withhold an intimate sample and they would be required to provide a non-intimate sample. With those comments, I very much hope that hon. Members will support that clauses 4, 5 and 6 stand part of the Bill.

Mr Hurd: I wholly endorse what the hon. Gentleman was saying about the pragmatic approach of the clause. I also congratulate him on the way in which he spoke about the sensitive issue involved. I wholly endorse and associate myself with his comments about the progress we have made as a country in our approach to HIV.

We will proceed with sensitivity on the issue, but the fact remains—the evidence is there in all the testimony, case studies and examples given on Second Reading—that, as well as dealing with the physical and mental aspects of being assaulted, in certain circumstances emergency workers may be concerned that they have contracted a

serious infectious disease as a result, especially when those attacking them threaten as much. If exposed to the risk of infection, emergency workers might have to wait for up to six months to find out whether they have been infected.

During such periods of uncertainty, the emergency workers may also be concerned that they are in turn infecting those around them, including their friends and family. One only has to read the speech of the hon. Member for Halifax or the examples given by the hon. Member for Rhondda—I am thinking in particular of PC Bruce and PC O’Shea and the story of what they had to go through—to realise that that is absolutely intolerable. That is why the clause is required.

Emergency workers may also have to take medication that ultimately is not required, some of which may have severe side effects. Such incidents can cause great distress and worry to the individuals and their families, so we are very keen to work with the hon. Member for Rhondda to find ways to protect emergency workers from the worries of unnecessary medication that may result from exposure to infectious disease. We therefore support his proposals in the Bill. However, we will want to work with organisations, including the National AIDS Trust and the Terrence Higgins Trust, further to consider their concerns. We will also continue to work closely with the police and other emergency services to ensure that the Bill’s proposals are practical and affordable. The hon. Gentleman has been extremely pragmatic throughout the course of the Bill. We want to put on the statute book legislation that will actually have some effect, and the Bill is genuinely practical in that respect.

I am reassured to hear the hon. Gentleman say he will continue to work with officials and stakeholders to ensure the Bill is the best it can be. I join him in making it absolutely clear that this Bill should not propagate stigma associated with HIV, which was a point raised by my hon. Friend the Member for Aldridge-Brownhills. It must be noted that there is a very low risk of contracting HIV through biting or spitting blood, and only in very particular circumstances. Alongside creating this power

we want to work with the police and emergency workers to ensure there is a better understanding of the risks involved. It is ultimately about supporting our emergency workers and providing peace of mind.

For the sake of consistency we agree that the Bill should extend police powers in the Terrorism Act 2000 to marry up with the extension of powers in the Police and Criminal Evidence Act 1984. Clause 6 makes further consequential amendments to the Police and Criminal Evidence Act, on disclosure, and to the Human Tissue Act 2004. It exempts blood and non-intimate samples from the controls in that Act for health protection purposes following assaults on emergency workers. It also makes provision for a constable to require a person to attend a police station for the purposes of taking a sample.

Chris Bryant: I am grateful for the Minister’s comments. I should put on the record my gratitude to him for the way he has been willing to work with me and to meet and take phone calls at all sorts of strange hours. I should also say that my hon. Friend the Member for Sheffield, Heeley has been particularly helpful to me, not least because this is an area of the law that she knows well, in helping draft the legislation and in persuading colleagues that this is a good piece of legislation. She has not got quite as good a name as Hooley, a former MP several years ago, whose campaign slogan was “Hooley for Heeley”. I do not know what the name of the hon. Member for Hazel Grove would be in similar circumstances.

Without further ado, I hope the Committee will support these clauses and the Bill.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clauses 5, 6 and 8 ordered to stand part of the Bill.

Bill, as amended, to be reported.

10.24 am

Committee rose.

