PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

OFFENSIVE WEAPONS BILL

Eighth Sitting

Thursday 6 September 2018

(Afternoon)

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Monday 10 September 2018

The Committee consisted of the following Members:

Chairs: MIKE GAPES, †JAMES GRAY

† Atkins, Victoria *(Parliamentary Under-Secretary of State for the Home Department)*
† Foster, Kevin *(Torbay)* (Con)
† Foxcroft, Vicky *(Lewisham, Deptford)* (Lab)
† Haigh, Louise *(Sheffield, Heeley)* (Lab)
† Huddleston, Nigel *(Mid Worcestershire)* (Con)
† Jones, Sarah *(Croydon Central)* (Lab)
† McDonald, Stuart C. *(Cumbernauld, Kilsyth and Kirkintilloch East)* (SNP)
† Maclean, Rachel *(Redditch)* (Con)
† Maynard, Paul *(Lord Commissioner of Her Majesty's Treasury)*
Morgan, Stephen *(Portsmouth South)* (Lab)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
† Pursglove, Tom *(Corby)* (Con)
† Robinson, Mary *(Cheadle)* (Con)
† Scully, Paul *(Sutton and Cheam)* (Con)
† Siddiq, Tulip *(Hampstead and Kilburn)* (Lab)
† Smyth, Karin *(Bristol South)* (Lab)
† Timms, Stephen *(East Ham)* (Lab)

Mike Everett, Adam Mellows-Facer, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 6 September 2018

(Afternoon)

[James Gray *in the Chair*]

Offensive Weapons Bill

Clause 16

Defences to offence under section 15

Amendment proposed (this day): 45, in clause 16, page 15, line 26, at end insert

"for a particular lawful purpose."—*(Stuart C. McDonald.)*

This is a probing amendment to allow debate on the appropriate scope of defences under Clause 16.

2 pm

Question again proposed, That the amendment be made.

The Parliamentary Under-Secretary of State for the Home Department (Victoria Atkins): On a point of order, Mr Gray. Having reflected, I want to ensure that the issues that the Committee debated just before lunch are clear, because hon. Members rightly asked me questions about screwdrivers and so on. As I said during the debate, the definition of a bladed product is in the Bill and does not include table knives, disposable plastic knives, screwdrivers or things like them, encased razor blades, a folding pocket knife with a cutting edge of less than 3 inches or flick knives, gravity knives or any other weapons prohibited under section 141 of the Criminal Justice Act 1988. A bladed product might include bread knives, steak knives, cut-throat razors and lots of other items, such as axes and swords, that I should hope people would already think capable of causing serious injury. In short, the definition is in the Bill, and I hope that adds clarity.

The Chair: That is not technically a point of order, but I know that Committee members will be grateful for the Minister's clarification of her previous remarks. If any Member wants to return to that matter they may do so shortly, during the stand part debate.

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): I thank the Minister for her explanation of the defences set out in the clause. I do not think that anybody has a problem with the defence set out in subsection (1), which seems absolutely reasonable. Subsection (4) seems fine, so far as it goes, although there is some suggestion that it might be useful to add some other purposes to that list.

However, subsections (2) and (3) are what my amendment is really about. I suspect and hope that they will work absolutely fine in practice, but they seem to have been drafted in a rather woolly manner. Subsection (2) is about bespoke manufacture. The Minister will correct me if I am wrong, but I think she said that adding "for a particular lawful purpose" into subsection (2), as my amendment would, would probably prove pointless in reality, on the basis that a buyer would simply make up a purpose to circumvent the rules. I may have picked that up wrong.

However, the amendment's wording simply reflects virtually the same test that is already in subsection (3), which is about bespoke adaptations. Why is it pointless for bespoke manufacturers to have to check the purpose of the instructions that they are given, but sensible, and included in the Bill, for those doing adaptations to have to ask the buyer's purpose and perform some sort of check? I do not know why there is that inconsistency. What is required of those doing bespoke adaptations in checking the purpose? Do they simply have to see whether the adaptation seems to fit the purpose that they have been told it is for?

As it stands, and as I pointed out earlier, the Bill does not even require that purpose to be lawful—it only has to be a "particular purpose". I suspect that it is implied that it should be lawful, but that is not absolutely clear to me. For example, if I ask for an adaptation for the purpose of making a blade even more lethal, that would be a "particular purpose", but it certainly would not be a lawful one. I would like some reassurance that that defence would not be allowed to be made. It may be that I am worrying over nothing, but it seems that there is still a little bit of difficulty in working out where we stand with subsections (2) and (3). For now, I think it is probably best that I leave it to the Minister and her officials to discuss. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Louise Haigh (Sheffield, Heeley) (Lab): I want to consider a couple of other areas that we have not covered on which the Committee received evidence. One such example is a request for a defence under the clause for Scout groups and other such charities. We have received evidence that a large number of people who buy knives from this particular business are Scout groups and Scout leaders and, because of the way they operate, the majority of their orders are placed by Scout leaders and delivered to their homes. They are concerned that this ban would stop that and force them to go and pick up from other access points. The evidence we received requested that a specific defence could be made allowing charities to have knives delivered to their registered addresses. All Scout groups are registered charities.

The other area of concern that has been raised is antiques. I appreciate that in another part of the Bill we will be discussing antiques and the need for more controls on antique firearms, but just for the purposes of clarification and to respond to the many people who are concerned about this bit of the Bill, could the Minister tell us why she has rejected the proposals to include purchases for charities and of antiques as a defence under this clause?

Victoria Atkins: In clause 16, we have responded to the consultations made in the course of the Bill's being drafted. I am conscious that I read out some of my

speech on this previously. With the Committee's consent, I will not repeat that, because the evidence is on the record.

We will come on to museums a little later in the knife provisions. I am seeking to pass an amendment to include museums under the clauses outlawing possession of weapons that are so offensive that Parliament has previously judged that they should not be sold, imported, or anything of that nature. We are just trying to close that gap. We will seek an exemption for museums, which may have flick knives or zombie knives in their collections.

If I may, I will write to the hon. Member for Sheffield, Heeley about charities, because I would like to explore whether the definition of a business would also include a charity.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

MEANING OF "BLADED PRODUCT" IN SECTIONS 15 AND 16

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

Louise Haigh: I just want to reiterate the concern about the clarity of the definition. Will the Minister confirm that, essentially, any blade over 3 inches will be covered by this definition?

Victoria Atkins: I am extremely grateful to the hon. Lady. Would it help if I repeated my point of order?

The Chair: The Minister may of course do so, but it is already on the record.

Victoria Atkins: Thank you, Mr Gray. I went back to the definition in the Bill, and the specification of the size of the blade relates to folding pocket knives only, so the example of the kitchen scissors would fall under this legislation. I hope that clarifies that.

I appreciate that this is a complication that people setting up home or adding to their cutlery drawer have not had to contend with before, but with this Bill we are trying to stop young people from finding a way of getting hold of these sharp products online. I hope that if members of the public order their kitchen scissors or whatever, they will be able to pick them up at the post office or, if they have ordered through a shop that has branches across the country, they can go and pick them there up at some point.

Kevin Foster (Torbay) (Con): Personally, I find the definition in this clause very clear, in terms of both the blade and its capacity to cause serious injury, which deals with some of the more minor points we heard earlier. Does the Minister agree that not that long ago to buy any of these products one would have had to go to a shop or a hardware store, so it is not the greatest of suffering in an area that would not have had those stores to head to the local post office to pick up those items, if needed?

Victoria Atkins: I am extremely grateful to my hon. Friend for reminding us that we have been in this world of expecting deliveries through the post because of online sales for only the last decade or so. He is right that to buy a pair of kitchen scissors, a steak knife or whatever in the past a person had to go to a local shop.

Louise Haigh: That is absolutely right. But, apart from the issues for disabled people and people living in isolated areas, the burden is not really on the individual, although it will be a pain to have to go to the local post office when previously something could be delivered to people's houses. The burden will be on business, in having to separate out products that can, at present, be delivered to someone's home without any additional checks other than perhaps, for certain products, that the recipient is over 18. Now businesses will have to separate out those products and choose somewhere else to deliver them to. That is why we need clarity about which products can be delivered where, otherwise I fear the legislation will have a devastating impact, particularly on smaller online retailers.

Victoria Atkins: As I said, we have tried with the use of the new phrase "bladed product", different from the language used in the Criminal Justice Act, to simplify the definition as far as possible so that, under clause 17, the test is whether the product

"is or has a blade, and…is capable of causing a serious injury to a person which involves cutting that person's skin."

That is why, for example, encased razor blades are not included, or table knives, cutlery knives and disposable plastic knives, but the definition does include knives such as bread knives, steak knives, kitchen scissors and so on. The Bill has had to balance the needs and concerns of everyone.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Clause 18

DELIVERY OF BLADED ARTICLES TO PERSONS UNDER 18

Amendment made: 23, in clause 18, page 17, line 21, leave out "is guilty of" and insert "commits".—*(Victoria Atkins.)*

See the explanatory statement for Amendment 17.

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

Louise Haigh: At the risk of replicating the discussion, I will repeat some of the points I made earlier, because I do not think the Minister responded to the alternative proposal of expanding the clause to cover sales made internally in the UK, rather than just sales outside the United Kingdom.

We believe it could be possible to mirror this clause to cover internal UK sales, so someone would be entitled to purchase a bladed article online from a retailer outside of the UK and all they would have to do is prove that they were over 18 when it was delivered. Much of that would circumvent the issues that we discussed regarding clause 15.

Although the term "article" has, as we discussed, a different definition, it is clear that many bladed articles will be captured by the definition of "bladed products" in clause 18. Therefore a delivery to a residential address

[Louise Haigh]

for an adult would be possible under clause 18, but not under clause 15. Will the Minister explain why there is not a similar provision to that in clause 18 for internal UK deliveries?

Stephen Timms (East Ham) (Lab): As my hon. Friend has pointed out, clause 18 deals with sales of knives by sellers outside the UK. The Minister has already rightly pointed out to us on a number of occasions that the British Government, or our laws, can impose very little control outside the UK.

The difficulty was illustrated by this morning's discussion, in which it emerged that if in future I buy kitchen scissors from a British supplier I will have to go to the post office to pick them up. If, on the other hand, I buy them online from an overseas seller they can be posted direct to my home. That is quite problematic, and I imagine there will be more discussion of that as the Bill progresses through this House and the other place. It highlights the real difficulty of dealing with sellers located outside the UK. I have no idea what proportion of the dangerous weapons purchased in the UK are bought from sellers outside the UK, but my sense from looking at places such as eBay is that quite a large proportion of them are.

2.15 pm

Karin Smyth (Bristol South) (Lab): We also have the unresolved issue of what happens, should we leave the European Union, about movement across the Irish border, and the propensity of these sorts of weapons—blades and so on—to be moved or sold from within the Republic of Ireland into Northern Ireland. We need to know what the provisions will be because Ireland will be an overseas country.

Stephen Timms: My hon. Friend makes a very interesting point. I rather hoped that being in the EU would mean that we could regulate what those sellers are doing, but I gathered from the debate this morning that we cannot. The fact that Germany is in the European Union does not seem to give us any more purchase over what German sellers do than we have over Chinese sellers, and my hon. Friend is right that the impact of leaving the EU will need to be considered.

In clause 18, we are trying to ensure that knives bought from sellers outside the UK are not delivered to under-18s. I reiterate my view that, as my hon. Friend the Member for Sheffield, Heeley argued persuasively on Tuesday, that age is too low; it should be higher. It should be set at 21, rather than 18.

It is clear—the Minister gave us a good example this morning—that a lot of knives are reaching under-18s in the UK. Reducing under-18s' access to knives from sellers outside the UK will help to reduce the number of young people being injured and, indeed, killed.

We should go further than clause 18. We need something a bit more robust. The Minister rightly pointed out that sellers outside the UK are beyond the reach of UK law, so clause 18 instead places the responsibility on the delivery company. I accept that that is a perfectly reasonable way of doing this, but I worry that sellers outside the UK that are determined to increase their profits by selling knives to under-18s in the UK will fairly easily be able to get around the restrictions that clause 18 imposes. The delivery company in the UK is absolved of blame under subsection (1)(d) if it did not know when it entered into the arrangement that it covered the delivery of bladed articles. I would prefer that companies delivering parcels from overseas to households in the UK be required to carry out some degree of checking what is in those parcels. I am not suggesting that every parcel should be opened and scrutinised, but there must be some degree of checking what is being delivered. A sample should be checked.

If it turns out that the seller outside the UK with whom the company has a contract is delivering a significant number of knives, even though the seller did not tell the delivery company that they were knives, in practice the delivery company would eventually probably realise that. Someone would open a parcel on the doorstep, or perhaps a parcel would fall open en route. I think the delivery company probably would in due course pick up that it was delivering knives. Were that to happen, the delivery company should be required to end its contract with that supplier, because the supplier had obviously been dishonest and not told the delivery company that the contract involved the delivery of knives. It would be entirely appropriate for the contract to be ended.

As clause 18 is worded, however, the delivery company does not have to end its contract if it becomes aware that it is in fact delivering knives. Subsection (1)(d) requires only that it should be

"aware when they entered into the arrangement"

that it related to knives. At the very least, that should be extended so that if the delivery company becomes aware in the course of the arrangement that it is in fact carrying knives, the clause takes effect. The fact that it did not know at the moment it entered into the arrangement imposes a very limited restriction. I have not tabled an amendment to address the issue, but I wonder whether the Minister could reflect on it. I am not expecting her to give an answer today. Will she reflect on whether it would be appropriate to tighten the wording?

Say a delivery company has a contract to deliver products from a supplier that is outside the UK to purchasers in the UK. It is not aware when it enters into the contract that some of the products are knives, but discovers in the course of its deliveries that some or perhaps all of them are knives. Surely the delivery company should then be required to terminate the contract. I would go further and argue that companies delivering goods from outside the UK should be required to carry out at least some checks to find out whether they are delivering bladed articles. If they do find out, one way or another, that they are delivering bladed articles and the seller has not told them, they should surely at least be required to end the contract.

I have another question to ask the Minister. Presumably when these parcels are imported to the UK, they will have to go through customs of some sort, where some level of checking of what is in them will be carried out. Perhaps it will emerge in one of those checks that a parcel contains a knife. What would happen at that point? Would customs inform the delivery company to whom the parcel was being shipped that it contains a knife and should not be delivered to somebody under 18? I appreciate that it is not only the delivery company that is involved in checking what is in parcels. I am sure

there will be some element of checking in customs. When such a check reveals that there is a knife, what is the response of customs?

My concern is that clause 18 as framed does not go far enough to restrict the ability of overseas sellers—we have established that they account for a significant part of the problem we are facing in constituencies such as mine—to deliver dangerous weapons to young people under 18.

Stuart C. McDonald: I will be brief. There was a lot of sense in what the right hon. Member for East Ham said, particularly about the wording:

"when they entered into the arrangement".

I look forward to hearing what the Minister has to say about that. It brings to mind the amendment I tabled on the equivalent provision on corrosive substances, where the test in the Bill is that the delivery company is "aware". I queried whether that should be "ought to have been aware". As the Bill is drafted, there is a danger that delivery companies will take an approach of "see no evil, hear no evil" and will not make active inquiries about what products they will actually be asked to deliver. If, at the very least, we put in a test of "ought to be aware", that will mean other companies actively trying to work out what a company will generally be requiring them to deliver. That might also be something for the Minister to think about.

Victoria Atkins: Clause 18 introduces a criminal offence if a delivery company delivers, on behalf of a seller based abroad, a bladed article into the hands of a person aged under 18. A bladed article is an article to which section 141A of the Criminal Justice Act 1988 applies. Eagle-eyed Committee members will have noticed that we have moved from talking about a bladed product to a bladed article. The law under section 141A of the CJA applies to knives and certain articles with a blade or point—for example, axes, razor blades other than those that are encased, and all knives other than folding knives with a blade of less than three inches. Actually, with bladed products the length of the blade is also irrelevant, unless it is a folding pocket knife.

I am very conscious of the points that the right hon. Member for East Ham made about clause 18(1)(d), and I will reflect on them. I am also very conscious of the points made by the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East, and will reflect on those, too.

I am grateful to the shadow Minister for her observations. It is part of the balancing exercise regarding delivery. If a delivery company makes the commercial decision to enter into a contract or arrangement with someone overseas selling products, we have sought to place the responsibility on the delivery company for ensuring that all is well with the person to whom they are providing a service. Extra-territorial jurisdiction is sadly not just an issue in the case of offensive weapons, but in many areas, such as ordering drugs over the internet, particularly using the dark web. We have sought to control it through that mechanism.

For sales where the seller and buyer are in the United Kingdom, we asked delivery companies as part of our consultation exercise what they would make of placing criminal liability on their post office workers or delivery drivers. We concluded that were we to expand the provision to all online sales of knives, delivery companies might start to say to themselves, "It's just not worth it commercially for us to deliver these knives or bladed products at all. We won't do it." That would leave our small businesses in great trouble, because they would be unable to get their products to their customers.

I know that small businesses are having to go through a number of checks to get their products into the hands of their lawful purchasers, but we hope that the provisions in relation to the online world overseas will mean that delivery companies are very careful when they enter into such arrangements.

Louise Haigh: Will the Minister give an example of how a delivery company could ensure that, in her words, all is well with a seller overseas? Can she give an example of what that would have to look like to meet the standard in the Bill?

Victoria Atkins: These delivery companies are very big businesses by and large. They have extraordinary human resources departments. They will be drafting contracts with the people with whom they have delivery contracts. If someone orders anything from a major department store or online shop, it is unlikely, frankly, that they have their own in-house delivery service. They probably subcontract that to various companies—I will not advertise them in today's proceedings, but we know who they are.

Frankly, I expect those delivery companies to understand what they are potentially delivering when entering into such arrangements. We are all aware of how illicit items can be posted from overseas to avoid customs and so on, so I expect those business to satisfy themselves that they are meeting the law. Every company conducts its contractual negotiations differently, but if a delivery company enters into an arrangement with a business that sells knives, it should be on red alert to ensure that it is a reputable business with which to do its trade.

2.30 pm

The right hon. Member for East Ham asked what happens if such items are discovered at the border. He will appreciate that this applies not just to offensive weapons but to all sorts of illicit goods. Under current legislation, Border Force may seize the knife providing it reasonably believes that the police will investigate the case. In addition, clause 18 places the responsibility on the delivery company. We believe that placing the responsibility on the delivery company in the particular circumstances of overseas sales is a way of trying to stem the flow.

Louise Haigh: In the example that we have discussed at length—someone buying an offensive weapon or corrosive product off an individual through a platform—how does the Minister anticipate that the delivery company will satisfy itself about what the individual seller is selling? It is one thing saying that it should establish that it is delivering for a reputable business, but if it is an individual overseas, how will the company ensure that it is adhering to the standards in the Bill?

Victoria Atkins: To clarify, does the hon. Lady mean that the delivery company has a contract with Amazon, for example, which is being used as an antiques fair?

Louise Haigh: Yes.

Victoria Atkins: In those circumstances, I hope the delivery company will have a good understanding from Amazon, which will have a good understanding from the seller about the products. I am not pretending that this is easy, but that is the conundrum we all face nowadays with the global internet marketplace.

Louise Haigh: The issue here is the individual seller that uses a delivery company. Amazon and other platforms do not have their own deliverers—well, they do if they are directly selling—but individuals contract a delivery company, so Amazon is taken out of it at that point. I struggle to see how a delivery company can satisfy itself to the standards rightly included in the Bill that the individual is selling what they say they are selling.

Victoria Atkins: We have had to restrict this to contracts with direct arrangements between a delivery company and the seller. As I say, we are trying to close the net on these sorts of products. That is why I will be very interested to reflect on the point made by the right hon. Member for East Ham about what happens if, having entered into the arrangement in good faith and not understanding that bladed articles are in the marketplace, the delivery company then discovers that. If I may, I will reflect on whether they are then opened up under the clause.

Louise Haigh: I am sorry to press the Minister on this. We could easily have a situation in which an individual advertises a knife on Amazon and sells it online, and then takes it to the equivalent of the post office in their country and tells it that the item is something completely different. Is it sufficient, in that situation, for the delivery company—whoever it is—to have been told that it is completely harmless? Will the delivery company have met the standards in the Bill?

Victoria Atkins: That scenario is not envisaged by the Bill. Subsection (1)(c) states:

"before the sale, the seller entered into an arrangement with a person who is a body corporate"—

in other words, a company—

"by which the person agreed to deliver bladed articles for the seller".

We foresee a relationship whereby someone sets themselves out as a knife seller. That is what they do—intricately carved knives, or whatever. They know that in the UK they have to get them delivered, and an arrangement is set up between the delivery company and the person selling the knife.

Louise Haigh: So is it the case that individuals who are not set up as body corporates will not be covered by this legislation?

Victoria Atkins: The wording in the Bill is "body corporate", as in the delivery companies. I suspect by now the Committee has an idea of the difficult balancing exercise we have had to engage in to try to tease out these corners of the online international marketplace. This the arrangement that we have put into the Bill. In those circumstances, it will be up to the court to determine, on a case-by-case basis, taking into account the individual circumstances of the case, whether reasonable precautions were taken and all due diligence was done. Particular subsections in relation to Scotland are in the Bill.

Karin Smyth: To follow on from my right hon. Friend the Member for East Ham, given the land border on the island of Ireland, has the Department consulted officials about the scenarios in the Republic of Ireland for how this Bill, once enacted, would be operational on the island, in the context of the Republic of Ireland being an overseas territory?

Victoria Atkins: The hon. Lady will understand that there are a great many discussions ongoing with Northern Ireland. The fact that the Assembly is not in action in Northern Ireland complicates our passing legislation not just in this context but in others.

Kevin Foster: Is the Minister aware of the particularly significant trade in bladed items across the border between Donegal and County Londonderry? There are particularly large knife-selling businesses located there. On body corporates, surely it is highly unlikely that someone would send a personal courier with a weapon. Quite bluntly, if they did, I would like to see that person stopped at the border.

Victoria Atkins: My hon. Friend persists in popping little interesting and sometimes amusing comments into the debate. I am not personally aware of the online knife market between the Republic and Northern Ireland, but if my hon. Friend is suggesting a Committee trip to the emerald isle to explore that, perhaps he will have some support. He is right about body corporates; we are trying to get at the businesses that do the bulk of the delivery work in this country to try to secure their assistance with the aim of the Bill. I am told that there have been discussions with officials in the Department of Justice in Northern Ireland. There have not been discussions with officials in the Republic, but I am happy to take that away.

Karin Smyth: Regarding the point made by the hon. Member for Torbay, this is a serious matter. As we leave the European Union, the Republic of Ireland will be, for the first time, treated as an overseas country for all these matters. If there is not a trade now, there is a possibility of future trade. It is incumbent on all Departments to be aware of that in passing legislation. It is also incumbent upon the Government, as a result of the Belfast/Good Friday agreement, to have detailed co-operation with enforcement officers in the Republic of Ireland on all such matters. Before the Bill goes back to the Floor of the House, it would be helpful for that to be discussed with officials in the Republic of Ireland as well as in Northern Ireland.

Victoria Atkins: I thank the hon. Lady for that observation.

Question put and agreed to.

Clause 18, as amended, accordingly ordered to stand part of the Bill.

Clause 19

AMENDMENTS TO THE DEFINITION OF "FLICK KNIFE"

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

Louise Haigh: I have a few concerns to express on behalf of several organisations and individuals who have given evidence to the Committee. We of course

wholeheartedly support the principle behind the clause, which is to update definitions in order to reflect change in weapon designs.

The existing definitions include,

"any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a 'flick knife' or 'flick gun'",

and any with a blade released by "force of gravity". Respondents felt that neither of those particular knives was of the type used in criminal activity now. We are not convinced by that argument, because the definition the Government were considering had not been published during the consultation. Now that the new definition has been published, I think it adequately captures the offence and has the benefit of being broadly defined. Many organisations, charities and those in the legal and criminal justice sector agree with the proposal, but there are some legitimate concerns.

In other cases, the definition for any knife, bladed article or bladed product has tended to expand as it has made its way through the courts and into case law. For example, butter knives are now bladed articles, thanks to a judgment in 2004, I believe. The majority of reservations expressed by retailers and individuals were around the possibility that the revised definition might capture knives that can be opened with one hand but are used in everyday life by those pursuing a hobby, such as rock climbers, or by those who require such a knife for their work.

One concern related to the definition in subsection (1)(a), which refers to a

"button, spring or other device in or attached to the knife",

rather than

"in or attached to the handle of the knife".

I have been provided with examples of safety knives used by kayakers that can be deployed with one hand by using lateral pressure against the stud of the blade, rather than the handle. That type of knife, which now involves only a possession offence without the reasonable excuse defence, would be prohibited. Will the Minister reassure the Committee that she has considered the representations of such sports enthusiasts regarding the definition and that she is satisfied that it will not criminalise perfectly legitimate products?

Victoria Atkins: The good news is that butter knives are not bladed products under clause 7.

Clause 19 amends section 1 of the Restriction of Offensive Weapons Act 1959 to provide that the definition of a flick knife will include knives that mimic the way in which a flick knife is opened, where the open mechanism design does not bring the knife under the definition set out in 1959 Act. In existing legislation, a flick knife is

"any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife".

That is an old definition and new designs are now available that mimic the speed with which a flick knife can be opened but that do not strictly fall under the 1959 legislation. There are suspicions that they have been designed deliberately to skirt around that definition. I have seen some models that allow the blade to open at great speed from a closed to a fully opened position, but the mechanisms are not in the handle. However, we know that they can be very dangerous and that they are the sort of weapons that people who have ill will in mind find very attractive as an option for arming themselves.

We have therefore set out to include in the new definition of a flick knife any knife that opens automatically from a closed or partially opened position to a fully opened position by means of

"manual pressure applied to a button, spring or other device"

contained in a knife or attached to it. Knives opened manually, including those opened with a thumb stud, will not fall under the new definition. Similarly, knives with a mechanism that opens the blade slightly but not completely and need to be opened fully by hand will not fall under the definition. We are very conscious of representations made by tree surgeons and others, and we have tried to encompass their concerns. The definition will ensure that knives for a situation in which it is necessary to open a knife with one hand are available in the market. For tree surgeons, for example, the fact of their occupation would lend them comfort under the Bill.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 20

PROHIBITION ON THE POSSESSION OF CERTAIN DANGEROUS KNIVES

2.45 pm

Victoria Atkins: I beg to move amendment 35, in clause 20, page 18, line 43, leave out "and (3)" and insert "to (3A)".

This amendment and Amendments 36 to 41 provide for various defences to the existing and new offences relating to flick knives and gravity knives. The defences apply to the making available of a knife to, or the possession, lending or hiring of a knife by, a museum or gallery.

The Chair: With this it will be convenient to discuss Government amendments 36 to 41.

Victoria Atkins: The amendments in this group do one thing: provide a defence for museums and galleries, so that they can continue to own and display historical examples of flick knives and gravity knives. I will explain why such a defence is needed.

The 1959 Act makes it an offence to sell, manufacture, hire or import flick knives and gravity knives, so the supply of these weapons has been inhibited since then, and as we have just agreed, clause 19 updates the definition of the flick knife. Clause 20 extends the prohibition on the supply of flick knives, including those caught by the new definition, and gravity knives by making it an offence simply to possess such knives. The intention behind these measures is to make it harder for young people to get hold of dangerous weapons and to ensure that the police can take action when they come across these weapons.

Flick knives and gravity knives exist as pure weapons; they have no purpose other than to cause injury. That is why we have been keen to ensure that the law keeps pace with their design. The new definition will assist in that. Although it is not an offence to buy flick knives and gravity knives, anyone who has bought one from overseas

[Victoria Atkins]

since 1959 has broken the law by importing it. We have become aware through the Department for Digital, Culture, Media and Sport that some museums, such as the Imperial War Museum and the Royal Armouries Museum, hold examples of flick knives and gravity knives in their collections. Some come from the first and second world wars or are considered to be of historical interest in other ways. These museums are also, in some cases, restricted by law as to how they can dispose of items in their collections and may only be able to do so in certain, very narrow circumstances.

The amendments in this group provide a defence for museums and galleries, should they ever be prosecuted for the offence of possessing a flick knife or gravity knife. The provisions enable them to hold and display historical examples of such weapons, to acquire new items, and to lend or hire such items to other institutions for cultural, artistic or educational purposes. They are similar to provisions already provided for museums and galleries for weapons covered by section 141 of the Criminal Justice Act 1988. We have agreed with the devolved Administrations that the defence will apply to museums across the United Kingdom.

Where a member of the public owns a flick knife or a gravity knife that is of historical interest, they can pass them to a museum or surrender them to the police under clause 24 of the Bill and claim compensation. I hope that explains why these amendments are necessary, and that they will be supported by the Committee.

Amendment 35 agreed to.

Amendments made: 36, in clause 20, page 19, line 14, at end insert—

'(3A) After subsection (2) insert—

(2D) It is a defence for a person charged in respect of any conduct of that person relating to a knife of a kind described in subsection (1)—

(a) with an offence under subsection (1), or

(b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,

to show that the conduct was only for the purposes of making the knife available to a museum or gallery to which this subsection applies.

(2E) It is a defence for a person charged with an offence under subsection (1A) to show that they possessed the knife only in their capacity as the operator of, or as a person acting on behalf of, a museum or gallery.

(2F) If the operator of, or a person acting on behalf of, a museum or gallery to which this subsection applies is charged with hiring or lending a knife of a kind described in subsection (1), it is a defence for them to show that they had reasonable grounds for believing that the person to whom they lent or hired it would use it only for cultural, artistic or educational purposes.

(2G) Subsection (2D) or (2F) applies to a museum or gallery only if it does not distribute profits.

(2H) In this section "museum or gallery" includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.

(2I) A person is to be taken to have shown a matter mentioned in subsection (2D), (2E) or (2F) if—

(a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt.""

See the explanatory statement for Amendment 35.

Amendment 37, in clause 20, page 19, line 27, at end insert—

'(4) It is a defence for a person charged in respect of any conduct of that person relating to a knife of a kind described in paragraph (1) with an offence under paragraph (1) to show that the conduct was only for the purposes of making the knife available to a museum or gallery to which this paragraph applies.

(5) It is a defence for a person charged with an offence under paragraph (2) to show that they possessed the knife only in their capacity as the operator of, or as a person acting on behalf of, a museum or gallery.

(6) If the operator of, or a person acting on behalf of, a museum or gallery to which this paragraph applies is charged with hiring or lending a knife of a kind described in paragraph (1), it is a defence for them to show that they had reasonable grounds for believing that the person to whom they lent or hired it would use it only for cultural, artistic or educational purposes.

(7) Paragraph (4) or (6) applies to a museum or gallery only if it does not distribute profits.

(8) In this Article "museum or gallery" includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.

(9) A person is to be taken to have shown a matter mentioned in paragraph (4), (5) or (6) if—

(a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and

(b) the contrary is not proved beyond reasonable doubt."

—(Victoria Atkins.)

See the explanatory statement for Amendment 35.

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

Stephen Timms: I have a question arising from what the Minister said earlier about what Border Force can do if it finds an offensive weapon coming across the border in a parcel or something of that kind. She said that if Border Force believes that there is a good prospect that the police could prosecute, it is empowered to seize the weapon. Proposed new section 1(1A) of the Restriction of Offensive Weapons Act 1959 says:

"Any person who possesses any knife of a kind described in subsection (1) is guilty of an offence."

It is clear that a person who receives such a weapon commits an offence, and from what the Minister was saying, Border Force would be empowered to seize that weapon. However, where under-18s are receiving knives, it is the seller who commits the offence by selling a knife to a person under the age of 18.

If Border Force found a knife in a parcel addressed to an individual, and was aware, or could establish, that the individual was under the age of 18—admittedly, it probably would not know that—would Border Force be able to seize it? My worry is that it probably would not, because nobody would have committed an offence. The person who has bought the knife has not committed an offence; because of the way the law is framed, the seller has committed the offence, but the seller is outside the UK and outside the remit of the law. If Border Force found a knife addressed to somebody under 18, would it be unable to seize it because no offence had been committed, or is there some basis on which it could seize it? It would clearly be an unsatisfactory state of affairs if Border Force could not do that.

The Minister quite rightly explained that Border Force would need to be satisfied that there was a reasonable chance of a prosecution being secured. Where a knife or

other offensive weapon is being sent to an under-18, it is not clear that an offence has been committed. Does that mean that Border Force would not be able to seize the knife? If that is the case, we may need to look at how the law is framed, because I want to see Border Force playing a role in—

The Chair: If I may, the right hon. Gentleman knows a great deal more about the Bill than almost anybody else in the room, and I have been a little gentle with him, but I suspect he is addressing something other than clause 20.

Stephen Timms: I raise the matter under clause 20 because the clause provides a form of words that clearly gives Border Force the ability to seize a weapon on the basis that the Minister explained. My concern is that if a knife is sent to an under-18 and the seller is outside the UK, no offence may technically have been committed, and Border Force might not be able to intervene. I just wanted to clarify the position, but I am grateful for your indulgence, Mr Gray, and for the compliment.

Victoria Atkins: If we are talking about clause 20 and flick knives, those knives are so offensive that there is no age restriction on their possession; if the Bill were passed with this clause, anyone in this room who possessed a flick knife would be committing a criminal offence. The clause aims to assist the police in circumstances where they make a house arrest—I am speculating—and one of those items is found. At the moment, the police cannot charge for simple possession because there is a gap in the law, so we are trying to close that gap.

Stephen Timms: I am grateful to the Minister, and I completely accept that the position in clause 20 is clear: an offence would have been committed, and Border Force could seize the knife. I have a question arising from our earlier debates about knives being sent to under-18s. As far as I can see, an offence has technically not been committed in that situation, so would Border Force be unable to seize a knife at the border, even though it knew it was being sent to an under-18?

Victoria Atkins: It is an offence to import a flick knife under the 1959 Act, so the offence would be the 17-year-old trying to import a flick knife, because it is such an offensive weapon.

Stephen Timms *rose—*

The Chair: Order. We may have flogged this one to death.

Question put and agreed to.

Clause 20, as amended, accordingly ordered to stand part of the Bill.

Clause 21

PROHIBITION ON THE POSSESSION OF OFFENSIVE WEAPONS ON FURTHER EDUCATION PREMISES

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

Louise Haigh: The Minister knows from Second Reading and from amendments that we have tabled that we would like this clause to go further. We await her response before considering what further amendments might be needed to capture fully all educational premises, and to include corrosive substances, so as to bring them in line with knives.

When the proposals were announced at the beginning of the consultation, we were under the impression that all educational premises, up to and including higher education premises, would be captured. The news release accompanying the consultation to the Bill—issued in July last year by the Home Office—specifically mentioned higher education institutions, but not further education. I am not persuaded by the argument that higher education facilities have been omitted because otherwise halls of residence would be captured, which are private and therefore legitimate places to possess bladed articles and products and corrosive substances. It would be relatively simple to put in caveats to ensure that possession of offensive weapons would not be considered in a domestic residence of a university campus. Subsection (7) covers this for an employee of a further education premises or a 16-to-19 academy; it explicitly excludes

"any land occupied solely as a dwelling by a person employed at the institution."

It is difficult to see why that cannot be extended to exclude any land occupied solely as a dwelling by a student of a higher education institution. In any case, that will be covered by the good reason defence under the Criminal Justice Act 2003.

The 2003 Act and the Further and Higher Education Act 1992 have created specific offences relating to knives in schools and other educational institutions in order to make them a safe space for learning. Students should know that their school is safe and that they are free from harm, which is critical to any learning environment. Sadly, for many school students in this country that is not the case. That is the principle behind the extension to further education premises, which we support, and why we think it would also be welcome and significant to extend the clause to university campuses, particularly as college and university campuses are so often open and city centre-based. University campuses should be free from knives, other than those carried for legitimate purposes.

In the Bill—I appreciate the Minister will come back to this—the definition of "public place"

"includes any place to which, at the time in question, the public have or are permitted access, whether on payment or otherwise".

Would that cover an individual arrested for possession on a walled-off university campus that they accessed via a key code? Probably not under the definition of the Bill, so they would be able to carry knives into that area without any reasonable excuse. Would it cover lecture theatres, which, on many of the city campuses of our universities, are places the public have access to, though perhaps they are not permitted there? Would it include walkways, departmental buildings or cafés on campus?

Under existing legislation, I think the best way to define "public place" is to look at the ruling in the landmark case at the Court of Appeal of R *v.* Kane of 1965, which gave guidance on whether a place is public. It said:

"The real question is whether"

the place

"is open to the public, whether on payment or not, or whether, on the other hand, access to it is so restricted to a particular class, or even to particular classes of the public, such, for example, as the

[Louise Haigh]

members of an ordinary householder's family and his relations and friends, and the plumber or other tradesmen who come to do various repairs about the house. If it is restricted to that sort of class of person then, of course, it is not a public place, it is a private place".

Before land can be said to be public, the onus is on the prosecution to prove that the public had access to it. The following have been held by the courts to be public places: a field where point-to-point races are held; a football stadium; hospital grounds where visitors to the hospital and their friends were permitted to enter; a public house car park; a multi-storey car park; and the upper landing of a block of flats in respect of which there were no notices, doors or barriers to restrain the public. It is clear that many of the spaces on a university campus would not be covered by that definition. That is why we are pleased that the Government are willing to consider expanding the definition of "public place", and why we want the clause expanded to cover university campuses. Clearly there would need to be carve-outs regarding scientific laboratories or use for educational purposes, just as there are for schools and will be for further education institutions.

3 pm

On the further education institution clause in front of us, our concerns centre on two very specific issues. One is whether the possession offence will impinge on legitimate purposes for having knives in an institution, as we have received evidence that colleges and 16-to-19 academies are concerned that they might not be able to prove a legitimate defence for catering students, for example. The second concern is about whether powers to search are being extended to college staff, as they are to schools. There are powers that enable school staff to search without consent where they have reasonable grounds for suspecting a pupil has a prohibited item, and they can confiscate items during searches. Respondents to the consultation have expressed the need for clarity on whether these statutory powers to search extend to colleges.

Finally, I return to subsection (7) to seek clarity. It covers the employee of further education premises, and specifically excludes from the possession offence

"any land occupied solely as a dwelling by a person employed at the institution".

I assume that is specifically designed with caretakers of further education institutions in mind. I just want clarity from the Minister on the meaning of "employed" for the purposes of this section. Would a caretaker be covered by the Bill if they were employed by a private contractor or an agency?

Tulip Siddiq (Hampstead and Kilburn) (Lab): I want to speak to the clause briefly, as it is important to my constituency. I welcome the extension of the offence of having an offensive weapon on school premises to further education premises. As a London MP, I am aware that between January and March this year, the city suffered double the number of fatal stabbings it did during the same period the previous year. Half the victims were 23 or younger, and I know from speaking to victims' families that many were involved in further education settings. As my hon. Friend the Member for Sheffield, Heeley, has said, expanding the policy to university campuses would help tremendously in my constituency—especially in Camden, where we have a large number of university campuses, and where many of these incidents took place. Time and again, that age group suffers the worst of the knife-crime epidemic that has hit the capital.

I want to mention a few statistics from the Mayor's Office for Policing and Crime; in our discussions of the Bill, we have not mentioned precisely the target group who have suffered most from knife crime. As has been mentioned, victims of gang-related knife crime were more likely to be male, accounting for about 88% of the total, and 76% were under 25. A significant proportion of the victims—68%—were from a black and minority ethnic background. Young BAME men between 16 and 20 account for almost a third of all victims of gang knife crime.

Library statistics show that about 1,161 individuals between the ages of 10 and 17 were cautioned for possession of a knife in the first quarter of this year, as compared with 4,062 aged over 18. That shows the purpose of expanding the number of young adults that come into the scope of the Bill, and how it is necessary. The statistics I have talked about reflect my experiences of working on these issues in Hampstead and Kilburn, where specific communities have suffered more profoundly than others—especially the Somali community in Camden, where certain families have suffered the loss of multiple family members within just a matter of months. There was a very high-profile stabbing a few months ago that many people have probably read about. It was heartbreaking speaking to the mother of the boys affected.

The Greater London Authority figures I have talked about are simply appalling; they reiterate why the clause is absolutely correct and why I support expanding the scope of the offence to further education settings. But in the process of supporting the clause—there is always a "but" when an Opposition MP speaks—I would like to pose a few questions to the Minister. In June, I attended the Regent High School with my right hon. and learned Friend the Member for Holborn and St Pancras (Keir Starmer). We had a discussion with students focusing on youth safety, knife crime and gun culture. The students were well aware of the horrific violence taking place in Camden, but they suggested that the Government might consider introducing a standardised educational programme, and possibly incorporating it in the curriculum.

I have a few questions on the clause for the Minister. By extending the scope of the offence, will she make a commitment that it does not warrant the end of efforts in schools by the Government? Is including lessons on violence in the curriculum something that the Government will consider? Will she also explain whether expanding the scope of the offence, as the clause does, means additional duties on local authorities? If so, will she explain whether they will be given additional resources to ensure that they can meet the challenges of clause 21?

Answers to these questions will be particularly important to Camden Council, which will be publishing the findings of its youth safety taskforce. My right hon. and learned Friend the Member for Holborn and St Pancras is involved in chairing the taskforce, which is looking at patterns of youth violence and the relationship with spending on youth services and educational settings.

The word "crisis" is overused in politics, but in London that is what we have seen with knife violence among our youth, especially our young black men. Although I have not tabled an amendment to the clause, I hope the Government will use it as a platform to launch education programmes, in all settings, that will prevent further bloodshed in my constituency and across the country.

Victoria Atkins: Clause 21 amends section 139A of the Criminal Justice Act 1988 to extend the offence to include further education premises. The change reflects the significant expansion in the number of students and the changes in such institutions since the law was amended by the Offensive Weapons Act 1996. The number of incidents of knife possession in education institutions other than schools is unknown because possession per se is not an offence at the moment, but the number of incidents reported in the media is low—although I know that, sadly, there is experience in some Committee members' constituencies of such incidents. We want to give the police the powers they need to deal with an incident before it happens.

Colleagues have understandably asked why universities are not included in clauses 21 and 27. While standing by the promise I made on Tuesday to reflect further, I will explain the thinking behind that. It is that universities are generally attended by adults rather than children—in other words, people aged over 18. As such, a university can be regarded as more akin to an office or other place of work than a place where children, as strictly defined by the law, are taught. Not all parts of universities can be considered a public place—for example, halls of residence—and a person possessing a bladed article, or offensive weapon or corrosive substance, on part of a university campus that is open to public access would be caught by the existing and proposed offences.

I am conscious of the debate about keypads and stairwells and so on, and it reminds me that one of the most contentious cases in the last few decades in the Royal Courts of Justice was over the definition of a Jaffa cake. I am afraid that this is a similar sort of debate. We all know what it is and we know what we want to achieve; the issue is how we get the wording into statute in a way that can be applied properly by the courts.

I am delighted that the hon. Member for Hampstead and Kilburn and the right hon. and learned Member for Holborn and St Pancras have been visiting schools in London to talk about knife crime. Hon. Members may remember that, not long after I was appointed, I invited former gang members into the House of Commons so that we as Members of Parliament could listen to them and they could contribute their ideas about what Government and Parliament can do to help to safeguard them better. Their thoughts—delivered directly, but also delivered through the great charities we work with, such as Redthread, the St Giles Trust and Catch22—very much fed into the serious violence strategy. The hon. Member for Hampstead and Kilburn will know that, having announced in April that we were setting aside £11 million to fund early intervention initiatives, the Home Secretary doubled that to £22 million over the summer recess, because we understand the importance of this issue and want to help organisations that are doing such great work on the ground to get the message out.

Just before schools rose for the summer holidays, I wrote to headteachers across the country and invited them to encourage their teaching staff to talk to children about knife crime before the holidays. We were conscious that sadly, summer holidays sometimes mean that children find themselves in very damaging situations. I do a lot of work on the curriculum with my colleagues in the Department for Education, and gangs and their impact form part of the latest safeguarding guidance from the Department. That issue is also addressed through the serious violence taskforce, which brings together the Home Office, all other Government Departments, senior Ministers, the Mayor of London, chief constables, police and crime commissioners, charities, healthcare providers, and so on. That taskforce is doing a great deal of work on what more we can do through early intervention to help children at an earlier stage.

This summer, we announced the results of the continuing anti-knife crime community fund, which is having a real impact on smaller charities in local areas that are working on the ground with children to safeguard them and lead them away from paths of criminality.

Louise Haigh: Will the Minister explain why the Home Office was considering higher education premises at the beginning of the consultation period, when it knew that universities are not occupied by children? What has changed the Home Office's mind during the consultation process?

Victoria Atkins: Just that we have been troubled by this definition of a "public place." Having listened to the submissions made through the Committee, we will look at the issue again, but this is a difficult area, because higher education premises tend to be frequented by people who are adults in the eyes of the law. Of course, if an adult walks around with a knife or does anything worse with it, that is already caught by the existing legislation, but higher education premises are a grey area, as are stairwells in communal housing. I will see whether we can do anything more that will withstand any challenge through the courts.

Tulip Siddiq: When the decision was made to not include university premises, was any consultation done with deans, chancellors or safety officers on university campuses, for example?

Victoria Atkins: I do not know the answer to that question on the spot, but I am sure we can write to the hon. Lady. I just wish to emphasise that it is difficult to pinpoint where is public and where is private in an area such as a university.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22 ordered to stand part of the Bill.

Clause 23

Prohibition on the possession of offensive weapons: supplementary

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

Louise Haigh: I hope that it goes without saying that the Opposition wholeheartedly support the intention behind this clause, which was in no small part motivated by the tragic killing committed by Blaise Lewinson with a zombie knife in 2016. Lewinson, who was eventually convicted of manslaughter, was fascinated by such knives, and the judge called the weapon used to commit the murder "ferocious." There is no doubt that these weapons can and do glorify violence, and their manufacture and use brings a quasi-military element to the streets of Britain. That may have a significant psychological impact on vulnerable young people and those who have fallen into, or are on the borders of, the criminal justice system or organised crime.

I would like to press the Minister on the definition in the clause to ensure that the House has properly considered whether it fully matches the Government's intention. Proposed new paragraph 1(s) of the schedule to the Criminal Justice Act 1998 (Offensive Weapons) Order 1998 describes

"a 'zombie knife', 'zombie killer knife' or 'zombie slayer knife', being a blade with—

(i) a cutting edge;

(ii) a serrated edge; and

(iii) images or words (whether on the blade or handle) that suggest that it is to be used for the purpose of violence."

3.15 pm

The Metropolitan police's guidance draws a slightly broader definition:

"There is no specific shape or style, but they are very ornate and intended to shock…in varying lengths and often with a serrated edge"—

often, but not always. The knives

"carry logos or words that glamorise and promote violence…they can cause greater damage due to their size…they are being sold as collectors' items online and in some shops."

I wonder whether we are drawing the definition too tightly around the specific shape and wording. Even a cursory glance at images of these knives suggests they are defined by a style and shape designed to cause shock, not the serrated edge or the cutting edge, nor the specific images or words that depict violence. Sales do not necessarily refer to the term "zombie". Some are called "head-splitters" and others are decorated only with blood splatter, not with any words at all.

It is easy to see that if we enact this legislation, designers of these kinds of horrific weapons will very easily get round it, as we know they do with firearms and other bladed articles—we have been discussing flick knifes. The manufacturers of these weapons know just how to circumvent the legislation. I worry that we are restricting ourselves and the ability of the police to clamp down on these horrific weapons.

Will the Minister enlighten the Committee on the discussions that took place in the Home Office, particularly with the Metropolitan police, on the definition? I appreciate that defining a style in law is extremely problematic, but since that is the clear intention behind the clause, it is important to bring to the Committee's attention other knives and weapons that appear to depict or glorify violence that will continue to be available for sale.

A zombie knife, in and of itself, is not the reason why a person, whatever their age, chooses to commit a crime. It could be a toxic mix of factors, many of which will have followed the individual throughout their life, that leads them to choose a weapon of such obvious and apparent violence. There is a strong link between experiencing or witnessing violence at a young age and committing violence. We understand that 8% of people beaten in childhood, and 17% of those beaten in childhood and youth, go on to commit repeat violent offences.

Some knife attacks, such as those using these weapons, are shocking. Often it is perceived to be a minor grievance and this has roots in the perception of violence, which children can carry with them from a young age. None of this will be solved by the ban. However, there is some evidence that graphic depictions of knife violence can have well-established, short-term effects on children or teenagers who watch violent video films, and on those who grew up in an environment of violence. That is why it is important to be responsible in the way violence is portrayed. Knives like zombie knives are reckless and completely unpalatable in this context.

While researching this clause, I happened upon various other weapons that have absolutely no place being available to the public, but which appear to be sold by an online retailer. One such example is a crossbow called the "rapture zombie crossbow pistol". The retailer prefaces the product with the following description:

"Fear the Walking Dead? Your chances of survival just got better with the Rapture 801b crossbow pistol from Anglo Arms. The long awaited Rapture pistol packs a powerful bite and delivers high levels of control and accuracy up to 100 yards. The body is powder coated aluminium to be lightweight and strong whilst the limb is made from flexible fibreglass that delivers a whopping 80lbs of power. The self cocking handle means loading is both quick and simple whilst the trigger lock provides a welcomed level of safety."

The same website rather irresponsibly lists all the zombie weapons that were available for sale and will now be banned, deliberately conjuring up the impression that the knives for sale are not illicit products and that any still available have managed to stay on sale by some loophole.

The Crossbows Act 1987 made it illegal to sell crossbows to under-18s, but there is no reason why we should not draft the clause to explicitly cover such weapons, which have no business being sold legally in the UK to anybody of any age. Anecdotally, it is apparent that crossbows are being used more in violent crime, including in poaching and injuring wildlife. Figures for this misuse are not collected centrally but levels of misuse have risen in recent years. Clearly, the settled will of Parliament is for crossbows to continue to be made available for lawful and legitimate purposes, but surely Parliament cannot intend for crossbows to marketed in a way that makes implicit that their use is for violence.

I hope that we can expand the definition in the clause to cover weapons beyond the zombie knives that are explicitly mentioned. I will write to the Minister with the examples that I have seen. The Opposition may table an amendment on Report, or the Minister might consider amending the clause to cover such weapons.

Victoria Atkins: The definition of "zombie knife" in the Bill is the existing definition under section 141(2) of the Criminal Justice Act 1988 set out in the Criminal Justice Act 1988 (Offensive Weapons) (Amendment) Order 2016. I appreciate that we are fighting a constant battle to future-proof the definition of such knives, but

that is the definition in law. I have listened to what the hon. Lady said about crossbows and I am happy to reflect on it. The definition of "zombie knife" was agreed by Parliament in a statutory instrument in 2016 and we have sought to be consistent with that.

Louise Haigh: Since that statutory instrument, how many possession convictions, or associated convictions, have there been in which the weapons cited by the statutory instrument were still being manufactured and sold?

Victoria Atkins: I will have to write to the hon. Lady about that. I commend the clause to the Committee.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

SURRENDER OF PROHIBITED OFFENSIVE WEAPONS

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

Louise Haigh: There are some costings involved in clauses 24 and 25. I believe that the impact assessment estimated that a national amnesty would cost between £200,000 and £300,000, and the cost of compensation for surrendered knives would cost about £200,000. Whose budget will that come out of?

Victoria Atkins: The budget for compensation?

Louise Haigh: The amnesty and compensation budgets.

Victoria Atkins: Clause 24 provides for the regulations for compensation. I will provide a draft of the regulations in due course, and there will be an opportunity to scrutinise the arrangements when they are laid before the House following Royal Assent. The budget for the compensation will come from the Home Office.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clause 25 ordered to stand part of the Bill.

Clause 26

Offence of threatening with offensive weapon etc

Amendments made: 24, in clause 26, page 25, line 14, at end insert—

'( ) Section 1A of the Prevention of Crime Act 1953 (offence of threatening with offensive weapon in public) is amended in accordance with subsections (1) and (1A).

This amendment and Amendments 25 to 28 provide for the repeal of the definitions of "serious physical harm" in section 1A(2) of the Prevention and Crime Act 1953 and section 139AA(4) of the Criminal Justice Act 1988. Clause 26 replaces references to "serious physical harm" in section 1A(1) of the 1953 Act and section 139AA(1) of the 1988 Act with references to "physical harm".

Amendment 25, in clause 26, page 25, line 15, leave out from "In" to end of line 16 and insert "subsection (1)—".

See the explanatory statement for Amendment 24.

Amendment 26, in clause 26, page 25, line 21, at end insert—

'(1A) Omit subsection (2).

(1B) Section 139AA of the Criminal Justice Act 1988 (offence of threatening with article with blade or point or offensive weapon) is amended in accordance with subsections (2) and (3).'

See the explanatory statement for Amendment 24.

Amendment 27, in clause 26, page 25, line 22, leave out from "In" to end of line 23 and insert "subsection (1)—"

See the explanatory statement for Amendment 24.

Amendment 28, in clause 26, page 25, line 28, at end insert—

'(1A) Omit subsection (4).'—*(Victoria Atkins.)*

See the explanatory statement for Amendment 24.

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

Louise Haigh: The clause attempts to lower the threshold for the offence of threatening with an offensive weapon. The offence of threatening with an article with a blade or a point, or an offensive weapon, set out in section 139AA of the Criminal Justice Act 1988 requires the prosecution to prove that the defendant threatened another person with a weapon

"in such a way that there is an immediate risk of serious physical harm to that other person."

This modification will strengthen the law to make prosecution easier.

The clause amends existing offences of threatening with an offensive weapon or article with a blade or point. There is a mandatory minimum custodial sentence of a four-month detention and training order for children aged 16 and 17 and a custodial sentence of at least six months for an adult convicted under the existing legislation. Let me take this opportunity again to put on the record the Opposition's concerns about mandatory minimum sentences for children and the conflict between the Sentencing Council's advice and the Government's legislation.

The clause raises a number of questions, and several organisations have made their concerns clear. The Law Society stated:

"We are not persuaded that the proposed change to the definition of this offence is necessary. The requirement that the prosecution prove that there is an immediate risk of serious physical harm arising from the threat, as introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, remains an appropriate, sufficient and objective, test."

As far as I could see, the consultation paper provided no examples of cases where the current law proved inadequate, so will the Minister elaborate on that? Can she provide examples where someone should have been convicted of an offence but the threshold could not be met? If not, why is the clause in the Bill? What advice has she received from the police service about the evidential threshold being difficult to meet? The impact assessment suggested there would be a 10% uptick in prosecutions. Presumably that figure was not plucked from thin air, so may we have more information about how the Home Office arrived at it?

The Law Society continued:

"It is not clear what exactly is the asserted inadequacy with the current law to justify this change in the law. While we note the inclusion of an objective element of the reasonableness of the victim's fear, by reference to a hypothetical person of reasonable firmness, this will provide fertile room for debate and appeals, in much the same way as occurred in relation to the old defence of provocation."

[Louise Haigh]

That is important. As the Minister will know, the old defence of provocation is in section 3 of the Homicide Act 1957 and was changed in 2009. In its first report, the Law Commission stated that there were significant problems with that defence as it did not appear to be underpinned by any clear rationale, and that the concept of loss of self-control had become troublesome.

In the 2005 case of Harriot *v.* DPP, for example, a man at a bail hostel returned to find his room had been burgled. He placed two knives in his pockets and started becoming agitated in the communal reception area. He then went outside into the front garden of the hostel. The staff locked him out and the police were called. After searching him and finding the knives, they arrested him for possession of sharply pointed implements and he was convicted. However, he won his appeal by arguing that the private front garden was not a place where that offence could be committed merely because the public's access to the area was unimpeded. That goes back to the problems with the definition of "public area". In that scenario, could the staff be regarded as having a reasonable fear that they were at risk of physical harm? Would that be any more the case under the Bill than under existing legislation?

This is the ultimate question: has the Minister properly scrutinised the clause for such unintended consequences, and does she intend to define "reasonable" in clause 26(1)(b)?

Victoria Atkins: I should declare an interest: I used to prosecute for the Crown Prosecution Service and other law enforcement agencies. I say with my legal hat on that I am very pleased that we are changing the test from subjective to objective. The problem the CPS has under current legislation is that, to prove the offence, it has to get the victim to court to show they were worried that they were at risk of violence. We want to stop victims having to come to court to give evidence in situations where, frankly, a reasonable person would feel in fear. The old offence made it difficult for the CPS to bring prosecutions in cases where someone walked around shouting and threatening to use their knife. That is why so few prosecutions were brought.

I met a senior member of the CPS to discuss how we could help the police and the CPS to tackle that criminality, and the test in the clause was arrived at. It is a perfectly standard, objective test of a reasonable person. I do not accept the proposition that the courts will be unable to grapple with the "reasonable person" test. The objective test is used across the criminal justice system for all sorts of offences. This is simply about placing someone in court when they choose to go out and threaten people with a knife or put people in fear of their actions. It is about ensuring that we protect the community and that the police have the powers they need to bring such people to justice.

Question put and agreed to.

Clause 26, as amended, accordingly ordered to stand part of the Bill.

Clause 27 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Paul Maynard.)*

3.30 pm

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