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HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DOMESTIC ABUSE BILL

Fourth Sitting

Tuesday 9 June 2020

(Afternoon)

CONTENTS

CLAUSES 2 TO 10 agreed to.
Adjourned till Wednesday 10 June at Twenty-five minutes
past Nine o'clock.
Written evidence reported to the House.

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

not later than

Saturday 13 June 2020

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The Committee consisted of the following Members:

Chairs: MR PETER BONE, † MS KAREN BUCK

Aiken, Nickie (<i>Cities of London and Westminster</i>) (Con)	† Harris, Rebecca (<i>Lord Commissioner of Her Majesty's Treasury</i>)
† Atkins, Victoria (<i>Parliamentary Under-Secretary of State for the Home Department</i>)	† Jardine, Christine (<i>Edinburgh West</i>) (LD)
† Bowie, Andrew (<i>West Aberdeenshire and Kincardine</i>) (Con)	† Jones, Fay (<i>Brecon and Radnorshire</i>) (Con)
† Chalk, Alex (<i>Parliamentary Under-Secretary of State for Justice</i>)	† Kyle, Peter (<i>Hove</i>) (Lab)
Coyle, Neil (<i>Bermondsey and Old Southwark</i>) (Lab)	† Marson, Julie (<i>Hertford and Stortford</i>) (Con)
† Crosbie, Virginia (<i>Ynys Môn</i>) (Con)	† Phillips, Jess (<i>Birmingham, Yardley</i>) (Lab)
† Davies-Jones, Alex (<i>Pontypridd</i>) (Lab)	† Saville Roberts, Liz (<i>Dwyfor Meirionnydd</i>) (PC)
† Gibson, Peter (<i>Darlington</i>) (Con)	† Twist, Liz (<i>Blaydon</i>) (Lab)
	† Wood, Mike (<i>Dudley South</i>) (Con)
	Jo Dodd, Kevin Maddison, <i>Committee Clerks</i>
	† attended the Committee

Public Bill Committee

Tuesday 9 June 2020

(Afternoon)

[Ms KAREN BUCK *in the Chair*]

Domestic Abuse Bill

Clause 2

DEFINITION OF “PERSONALLY CONNECTED”

Amendment proposed (this day): 48, in clause 2, page 2, line 21, at end insert—

“(ee) one person is a provider of care to the other;”.—
(*Jess Phillips.*)

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing amendment 49, in clause 2, page 2, line 34, at end insert—

“‘provider of care’ means any person (‘A’) who provides ongoing emotional, psychological or physical support to another person (‘B’) with the aim of enabling B to live independently, whether or not A is paid for this support;”.

An amendment to ensure a carer of a person with disabilities is included in the definition of “personally connected”.

The Parliamentary Under-Secretary of State for the Home Department (Victoria Atkins): Just to recap, I was setting out to the Committee that there are many forms of exploitation that can take place in all walks of life. I was giving the example of county line gangs grooming and recruiting young children with, frankly, paltry offers given the price they pay for the items they receive, such as food or a new pair of trainers. The police have been imaginative in dealing with gang leaders, including through prosecution under modern slavery legislation, because they draw out before the court that element of grooming and long-term exploitation and manipulation. I give that just as an example.

I completely understand where the hon. Member for Birmingham, Yardley is coming from, but we have tried to guard against addressing all forms of exploitative behaviour in the Bill, because we do not want inadvertently to dilute that central golden thread that runs through all of our understanding of domestic abuse: namely, that it is focused around a significant personal relationship, whether as a family member or as a partner. That is the core of the definition. If an unpaid carer is a family member, they will be caught by the definition. If they are a partner—as she said, many people have taken on caring responsibilities in the last couple of months because of the covid-19 crisis—they are covered by the Bill. I would not want anyone to think that carers per se are excluded from the Bill, but we have focused the definition around the central point of the personally connected relationship.

Abuse of disabled people by their carers can be covered by existing legislation. Section 42 of the Care Act 2014 places a duty on local authorities to carry out

safeguarding inquiries if they have reason to suspect that an adult in their area with care and support needs is at risk of abuse or neglect. There have been steady overall increases in the number of concerns raised and inquiries conducted under that section. In 2018-19, for concluded section 42 inquiries where a risk was identified, the reported outcome was to have either removed or reduced the risk to the individual in 89% of inquiries, which is an increase of 63% from 2017-18.

The statutory guidance supporting the Care Act also places a duty on local authorities to ensure that the services they commission are safe, effective and of high quality. The Care Quality Commission plays a key monitoring role to ensure that care providers have effective systems to help keep adults safe from abuse and neglect. The offence of ill treatment or wilful neglect provided for in section 20 of the Criminal Justice and Courts Act 2015 was introduced specifically to tackle the abuse of people who are dependent on care services. In addition, we have introduced tougher inspections of care services by the CQC and made sure that the police, councils and the NHS work together to help vulnerable adults.

The plight of disabled victims of domestic abuse will feature in the statutory guidance. Indeed, there is the national statement of expectations document for local commissioners—we have not discussed it much because it is not strictly on the Bill—through which specialist needs are and will be addressed.

I hope that we have reassured the Committee that we are alive to the risks to people who are disabled. Some carers who fall into the “personally connected” definition will fall foul of the Bill, but for those carers who do not, there is already existing legislation to tackle exploitative behaviour where it transpires. With that, I invite the hon. Lady to withdraw the amendment.

Jess Phillips (Birmingham, Yardley) (Lab): I thank the Minister for her thoughtful response. I appreciate what she said about the Care Quality Commission and its coverage, but it would have had absolutely no jurisdiction in the cases I outlined. Disabled victims are telling us that they are experiencing domestic abuse and feel that they are not in the definition. I look forward to the statement of expectations very much; I am pleased to hear that there will be expectations on commissioning in this area, but we want to get these people in the Bill. We will push the amendment to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 1]

AYES

Davies-Jones, Alex
Jardine, Christine
Kyle, Peter

Phillips, Jess
Saville Roberts, rh Liz
Twist, Liz

NOES

Atkins, Victoria
Bowie, Andrew
Chalk, Alex
Crosbie, Virginia
Gibson, Peter

Harris, Rebecca
Jones, Fay
Marson, Julie
Wood, Mike

Question accordingly negatived.

Liz Saville Roberts (Dwyfor Meirionnydd) (PC): I beg to move amendment 29, in clause 2, page 2, line 24, at end insert—

“(h) they live, or at the time of the abuse lived, in the same household.”

This amendment would ensure that victims living with an abuser in the same household, for example as a flat share, are considered to be “personally connected”.

This is obviously a broader amendment than that of the hon. Member for Birmingham, Yardley, and I am aware that the Minister has made some response, which I will try to address.

I have two main points. I was on the Joint Committee on the Draft Domestic Abuse Bill last year and this is one of its recommendations—I will refer to that in a moment. Secondly, “personally connected” is a term that is used in the legislation in Wales and I have found it very interesting—I hope it is interesting for others as well—to make the comparison between the legislation in Wales and that which we are creating here today, and to be aware of how those two pieces of legislation sit together.

The report from the Commission on Justice in Wales, led by Lord John Thomas, came out in October 2019. We have a legislature in Wales alongside the legislation that we make in similar areas in Westminster, and the growing effect of the divergence of legislation needs to be considered, particularly the impact on the ground—on victims and perpetrators. The report from the commission—chaired by Lord John Thomas, previously of the Supreme Court—was commissioned by the Welsh Government, but we should be alert to the effects on justice in Wales, particularly in legislation such as this Bill where we already have legislation in a similar area in Wales, although with a very different effect.

Amendment 29 would insert those who live, or who at the time of the abuse lived, in the same household into the definition of those who are considered to be personally connected. Although we have voted, I was supportive of amendments 48 and 49. As the Bill stands, people who live in the same household but who do not have an intimate relationship are not considered to be personally connected.

There is an interesting golden thread, to use a phrase that has already been picked up on: we are using the phrase domestic abuse, but at the same time we are dealing with relationship abuse and how those two issues sit together, because they evidently do not merge entirely together—nor do they in the concept that we are dealing with here. It is important that we tease out the differentiations and that we do not get caught into assuming that a certain term means one thing when perhaps it means something else. We should be very aware of whether there are individuals we intend to safeguard in the legislation who otherwise fall outside of it.

First, I must say clearly that the purpose of my amendment is not to add into the legislation a requirement for the victim to live in the same household as the perpetrator in order to be protected. Rather, the amendment seeks to ensure that victims of abuse inflicted by a housemate in the same domestic environment as them, which might be a friend, a sibling or a cousin, would be protected in addition to those who are protected here, to ensure that we cover that environment-specific case.

There were relevant recommendations from the Joint Committee; I will just refer to them again, because I think that will enable me to refer to some of the points that the Government have made in the meantime. The Joint Committee recommended that the Government

“reconsider including the ‘same household’ criterion in its definition of relationships within which domestic abuse can occur. This landmark Bill must ensure that no victim of domestic abuse will be denied protection simply because they lack the necessary relationship to a perpetrator with whom they live.”

The Joint Committee recognised that

“abuse of disabled people by their ‘carers’”, which we discussed earlier,

“often mirrors that seen in the other relationships covered by the Bill. We conclude that abuse by any carer towards the particularly vulnerable group should be included in the statutory definition. We share the concerns of our witnesses, however, that, even with the ‘same household’ criterion included in the definition of ‘personally connected’, paid carers, and some unpaid ones, will be excluded from the definition of domestic abuse.”

The Joint Committee therefore recommended that the Government

“review the ‘personally connected’ clause with the intention of amending it to include a clause which will cover all disabled people and their carers, paid or unpaid, in recognition of the fact this type of abuse occurs in a domestic situation.”

I am aware that the Minister has already referred to some of these matters. She touched on the Care Act 2014; just as an aside, and at the risk of repeating this all the time, I am not sufficiently familiar with the Care Act to be able to disentangle those areas that apply to England and those areas that apply to England and Wales, but I ask her at least to consider whether there are any possible gaps or loopholes in which there could be confusion of expectation. There may well not be, but one of my roles here is to ensure that we have checked that, care being devolved in Wales.

The only other point that I will make in relation to what the Joint Committee raised is the need for consistency of approach. Again, when we refer to previous legislation, or legislation that already exists, one of the alarm bells set off in my mind with this domestic abuse legislation is that what we are attempting to do here is to provide clarity and consistency. We have seen exactly the same issue with the range of sexual abuse offences. The fact that something exists in law does not mean that it is applied consistently across forces or even perhaps across local authorities. We need to be alert to ensure that what is put into this legislation is applicable and is experienced by victims consistently, as is intended. It is important to ensure that.

I have a few further points. As I mentioned earlier, this issue is particularly important when it comes to the victims and potential victims living in Wales, as definitions within Welsh legislation vary from what is included in the Bill. The Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015, in its definition of associated people, includes people who live or who have lived in the same household, so a different definition is being applied in Wales.

That is particularly important, since this is something we may well have seen at this time of covid-19 and also with young people, because younger households are much more likely to live in house shares and to rent privately. When all the bedrooms within a single house are occupied—in a terraced house, for example—with

[Liz Saville Roberts]

everyone sharing a bathroom and kitchen, that is a domestic situation in which abuse may occur. The landlord may well live there. There is a question about whether the legislation is missing something there that we might wish to capture. The 2019 figures from the Office for National Statistics illustrate that people aged between 25 and 34 now account for 35% of households in that sector.

2.15 pm

Private renters are more likely to have direct experience of unaffordability, of precarity in their relationship and in how they pay their rent, and of insecurity, particularly at the lower end of the private rental market. Although we cannot know the true extent of financial abuse or coercive control, I fear that those suffering in house shares are not sufficiently protected in the Bill. That situation warrants particular attention.

Housemates, or individuals living in shared accommodation, are covered under the 2015 Act but, as it stands, they would not be protected under the Bill. It is worth considering whether both pieces of legislation complement one another or if we have an overlap up to a point, but not beyond, and if so, whether that inconsistency will result in victims whom we might have intended to protect. The legislation should be as aligned as possible.

We debate the Bill in a context that is a world away from that in which it was first drafted. Looking back to the October draft—I remember discussing it this time last year with the Joint Committee—the world is a very different place now. The pandemic means that people who live with abusive housemates will have to spend more time than ever in the same house, and the places where they could previously spend time apart—cafés, pubs, gyms, other friends' homes, or workplaces—are not available to them. We may well see a spike in that sort of behaviour, which is exactly the sort that was intended to be captured this time last year, but there is a risk that we are defining it too tightly now. Of course, this applies just as much to carers. Because people have spent far more time in each other's company, we anticipate that when we come to review it, there will have been a spike in domestic abuse.

Peter Kyle (Hove) (Lab): The right hon. Lady has touched on a contemporary issue that has been happening throughout this crisis. It gives the Committee the opportunity to express our sincere gratitude to the frontline police officers and other statutory bodies who are doing so much to re-tool themselves during the crisis to ensure that they identify potential victims and people who are in danger of suffering domestic abuse, to offer support in really creative ways. We offer them our thanks. Will she join me in imploring the Minister and the enforcement agencies to learn from the experience that has been gained from this crisis, and to look at ways of putting that learning into live enforcement services, so that when we recover, we do not go back to business as usual, but aspire to do better?

Liz Saville Roberts: I am grateful to the hon. Gentleman for that intervention. In the legislation, the considerations will be about how to apply that and how to do so

consistently. The training that is available for police officers and other support bodies will be critical. At this time, I beg that we make the legislation as future-proof as possible, because we have experienced something that is different to how the Bill was drafted. We must consider that now; we do not want to be playing catch-up.

To come back to my point, although I entirely understand that there is a debate between what we mean by the location of the abuse—in the household—and relationship abuse, we have found ourselves in our households far more.

Jess Phillips: On people who live together, we must not assume that we are talking only about young, trendy people in Brighton who live together in a house share. In my constituency, there are very vulnerable people who live in houses in multiple occupation for years on end, with almost no support from the structure that is meant to support them. Landlords often receive the extra housing benefit without providing any of the support we would hope to see. We are talking about—I see it every day in my constituency—cases of very vulnerable people who may have suffered a pattern of abuse living alongside people who, also because of their vulnerabilities, are very likely to be abusing them.

Liz Saville Roberts: That broader awareness of what constitutes a household has been brought home to us in the past few months, as well as the nature of the tensions that can exist in such households. The thing that comes to my mind is younger households where house-sharing is common. One can imagine those are quite small households. But this applies more broadly than that.

If we were to assume that the nature of the coercive or abusive relationship is based on whether there is a sexual relationship between the two individuals in a formal sense, we would close our eyes to the wider experience and we should consider whether we should capture them in this legislation. That also applies where there are informal sexual relationships, which can be imposed on people to a degree in certain household environments.

I am aware that we have already voted on the specific aspect of this in relation to people and their carer. I would be grateful if the Minister would consider our experiences in the past few months and the inherent tension between whether we are looking at this on the basis of household—where someone is physically located—and those people who are intimately related, or whether this is an opportunity to capture a wider question.

Julie Marson (Hertford and Stortford) (Con): This amendment and the previous amendment speak to a common motivation to protect against an abuse that takes place in our society among many abusers of different relations of the powerful against the weak. I know that we are all motivated by a desire to address that.

I was a magistrate in a general court for several years before specialist domestic abuse courts were even envisaged and came into being. I saw a whole range of different contexts of abuse, but I wanted to be a part of the domestic abuse courts because it spoke to something

special: a specific context of abuse based on a very intimate relationship. I do not want to dilute that, because that direction of travel—to have fought so hard to get recognition for domestic abuse as the uniquely invidious and insidious crime that it is—is something I do not want to go against.

While I completely empathise with the desire to prevent abuse wherever we find it, I believe that the direction of travel that is encapsulated in this landmark Bill is where we want to go. That is why I would resist attempts to dilute that aim, context and direction of travel.

Victoria Atkins: I thank the right hon. Member for Dwyfor Meirionnydd—gosh, I took a deep breath before trying to say that. My hon. Friend the Member for Hertford and Stortford has summed it up beautifully, if I may say so. I absolutely understand the motivation for the right hon. Lady’s amendment.

As we were saying earlier, exploitation takes many forms. I know that the hon. Member for Hove has shone a bright light on the concept of sex for rent. I keep coming back to this golden thread of the relationship. I think everyone understand that that is what the concept of domestic abuse centres around, so that is the approach we have taken with the definition.

We considered the Joint Committee’s recommendations very carefully. Our concern was that including “household” in the definition may have the unintended consequence of diverting people’s attention from those relationships where people do not live together. I am sure we can all think of examples of incredibly abusive relationships in which the two people in that relationship do not happen to live together.

I will give an example: I visited a fantastic women’s centre a month ago, which has independent sexual violence advisers and independent domestic violence advisers working together. The IDVAs could identify certain serial perpetrators in their local area who were in relationships with not one woman, but with several women at the same time. By definition, that perpetrator could not live with all of the women simultaneously, but was visiting them and conducting his abuse against many women at the same time. I am anxious that we do not inadvertently, with absolutely the right intentions, divert people’s attention away from the central purpose of the Act. We have also tried to ensure in clause 2 that where a relationship has ended, that is still considered within the definition, because we are alive to the fact of abuse after a relationship has ended.

Finally, we would not want to broaden the definition to such an extent that it covers areas, such as landlords and tenants, that I do not believe people think of when they think about domestic abuse. As my hon. Friend the Member for Hertford and Stortford has said, it has taken us an awfully long time to get to where we are, and I hope we can work on ensuring that victims who are in abusive relationships have our attention and focus. These other forms of exploitation should also have focus—just not in this piece of legislation.

Liz Saville Roberts: I appreciate the Minister’s response. I am slightly concerned about the fact that she talked about one man with a number of relationships with different people, and then a relationship that is over. There is something slightly contradictory about that.

Because of the times in which we are living through, our awareness of the impact of domestic abuse and the misery caused by it, and the awareness of our police forces, will have changed since this Bill was originally drafted. I therefore leave the Minister with a sincere plea to be alert to the fact that we need to learn on our feet very quickly.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 2 ordered to stand part of the Bill.

Clause 3

APPOINTMENT OF COMMISSIONER

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

Peter Kyle: It is a privilege and honour to serve under your chairship, Ms Buck. This is the first time I have served under you, and it is an experience I am looking forward to. I have heard you are a very tough taskmaster.

I also pay tribute to the two Ministers present, who I know both want to make this the best legislation it can possibly be. I have worked with both Ministers in other areas, particularly the safeguarding Minister, the hon. Member for Louth and Horncastle. She might not remember this, but the very first Bill Committee I sat on was one for which she was on the Back Benches: it was the Public Bill Committee on the Investigatory Powers Bill in 2015-16, so I am familiar with being in a room full of lawyers and people with legal backgrounds when considering these kinds of Bills. At that time, the hon. Lady and I were both on the Back Benches, and if I remember rightly she was the first of the 2015 intake to go to into Government. Here we are again on a Bill Committee together, both as Front Benchers, which is an honour for both of us.

2.30 pm

This is an important piece of legislation, which we all need to get right. I pay tribute to the Back Benchers in Committee, who often do not get credit for these things. Those sitting on a Bill Committee for the first time, hearing the exchange I have just had with the Minister, should believe me that this is an opportunity for us all really to get under the hood of a piece of legislation and to go into some depth. Personally, and speaking for our Front Bench, I am looking forward to benefiting from the insight and wisdom that many Members will bring to this area.

We have already benefited from the hon. Member for Cities of London and Westminster with her experience on CAF/CASS, the Children and Family Court Advisory and Support Service, and, ever since I realised that the hon. Member for Hertford and Stortford was on the Committee, seeing her background, I have genuinely been looking forward to hearing what she has to say in her experience as a magistrate. Such things make legislation better, and this is a landmark piece of legislation to last for a generation.

The clause is a non-contentious part of the Bill, but there are things that we need to explore. Even though the clause is non-contentious, we still need to get it right and to seek assurances for aspects of it. In line 5, for

example, the clause gives the Home Secretary the power to appoint the domestic abuse commissioner—quite right, too, because the Home Secretary should have that power, but it is also right for us to explore how that appointment will be made.

The Bill and the explanatory notes give no guidance as to how the appointment will be made in future. I realise that the Home Secretary and the Home Office will adhere to the public appointments principles, as with all other standard appointments, but the Bill includes no commitment to the role of Parliament, and this is a really important part of how we appoint such roles into the future. I refer specifically to the role of Select Committees in such appointments.

Select Committees in this country scrutinising and doing pre-appointment hearings was based loosely on the US model, where Committees have the statutory power of veto, although we do not have that power here. Since Select Committees have been involved in pre-appointment hearings—even in the five years I have seen that, experiencing it myself on a Select Committee on a number of occasions—there is no question that it has led to better appointments. I seek an assurance from Ministers that they will take that process seriously.

Additional scrutiny comes with such an appointment hearing, and the fact that the Select Committee is independent of Government gives another branch to that scrutiny, which is done in public and on the record. That is incredibly important. Crucially, it adds credibility and authority to the commissioner once appointed. We seek this reassurance for the future, because we are in the slightly strange position of talking about an appointment that took place before the Bill has even come in to give the powers to the Home Secretary to make the appointment. This is about the future.

I have seen such things going wrong. In 2015, I was a member of what became the Business, Energy and Industrial Strategy Committee when a commissioner who is not a household name was appointed, the Pubs Code Adjudicator. We were asked to do pre-appointment scrutiny. It was a fascinating process to go through, and we treated it with all sincerity. We worked very diligently, holding hearings for stakeholders—pub owners, licensees, the legal profession and all such different areas—and investing a lot of time in the process.

When the nominee came before the Committee, however, it was the most lamentable performance that I have ever experienced from anyone seeking public office. It was very clear that there was a conflict of interest, which the potential appointee did not even seek to hide and refused to give up. Something quite unusual happened: the Select Committee refused to grant permission for the appointment. This was our statement to the Secretary of State on concluding the hearing:

“While the Committee has no reason to question Paul Newby’s integrity or his qualifications for the job, his long-standing relationship with pubcos through his past work and a continued financial connection has created a strong perception of a conflict of interest.

The Pubs Code has the potential to significantly improve the embittered relationship between pubcos and many of their tenants, but it will only work if the Adjudicator is seen to be independent and is able to command the confidence of all the industry’s stakeholders.

The Committee would like to see a new Pubs Code Adjudicator appointed from outside the sector, to ensure that this important role is—and is seen to be—completely independent and impartial.”

Within a week, the Secretary of State had gone ahead with the appointment, against the advice of Parliament, and there has been a very fractious relationship ever since. It has never been an appointment that has wholly had the support of the sector that the adjudicator was appointed to represent. Even though that example is from a slightly tangential area of policy, the principle still stands very strong.

Jess Phillips: I am not sure whether my hon. Friend was going to come on to this, but exactly the same thing happened when the chair of the Equality and Human Rights Commission was selected. Both the Joint Committee on Human Rights and the Women and Equalities Committee put in complaints that were nothing to do with his character or his abilities, but specifically to do with his running Government contracts. That was completely ignored by the Secretary of State, and I am afraid to say that that conflict of interest has been used by people who are potentially under question from the EHRC at the moment to suggest that the commission is in some way compromised. This has an effect on people’s ability to do the job.

Peter Kyle: I am grateful for that additional example. I am very aware of the case study that my hon. Friend refers to, even though I was not going to bring it into my few words. It illustrates an incredibly important point: having the support of Parliament is an empowering force behind any public appointment. Furthermore, it offers increased credibility. It starts with a commissioner having the respect of—and a functional relationship with—not just the Government who made the appointment, but Parliament.

In our system of democracy, we take very seriously the relationship between Government and Parliament. Parliament will play a part in scrutinising, so if it has a hand in appointing, there is buy-in from the start. It really is a win-win for Parliament to be involved via the Select Committees.

The appointment has already gone ahead, and I do not think that anybody would say that Nicole is either not qualified for the job or not a welcome appointment to it—but this is certainly something that we need to think about for the future. In my earlier example, it is very clear that even though the public appointment went ahead and had the backing of Government and Ministers, the role has never lived up to the expectations that were set for it when it was first created. I implore Ministers not just to submit future commissioner appointments to an appointment hearing with the Home Affairs Committee, but to give the Committee the power of veto.

I realise that giving power away is not in the DNA of the Home Office. It is not the normal trajectory that we see from Home Office Ministers, but there are times when giving power away is a very empowering act that leads to a much more functional relationship between Government and Parliament, Parliament and the appointee, and the appointee and Government.

The Home Office has already appointed the commissioner, and it is worth putting it on the record at this point that the Joint Committee on the Draft Domestic Abuse Bill, which scrutinised the previous and similar legislation to

that which we are examining today, was not happy that that happened. It said, in paragraph 287 of its report, that

“we were surprised to learn that the process of recruiting a designate Commissioner had almost been completed before Parliament had had any opportunity to consider—still less to recommend any changes to—the draft Bill setting out proposals for the Commissioner’s remit and powers... We consider this unsatisfactory.”

I agree, and I suspect many Members in this room agree. They are free to do so, because there will not be a vote at the end of our discussion on this clause.

We all appreciate the enthusiasm of Ministers and the Home Office to get this appointment out the door, but I have to say that, even though we agree with and celebrate the appointment of Nicole Jacobs, the Minister and Government got away with it this time. Had that appointment not had the backing of the sector and of Parliament, it would be very hard to establish the credibility that this role needs within the sector.

I hope that my words will have made an impression. We purposefully did not put down an amendment to this clause, because we did not want to press this point, but we do want to impress it on people in the strongest possible terms that the joint relationship between Parliament and Government in making the appointment in future is something that will tangibly strengthen the role.

Victoria Atkins: I thank the hon. Gentleman for his constructive and considered comments on this matter. I thank him also for reminding me of the Investigatory Powers Bill, proceedings on which, it is fair to say, were more fiery than those on this Bill.

I very much take on board what the hon. Gentleman says, in that we have always been very conscious that the commissioner must have access to Parliament and must be accountable to Parliament in the sense of laying annual reports. Indeed, we have made it—I suspect that we will come on to this in a little while—their responsibility as a commissioner to lay their annual report before Parliament. They, not the Secretary of State, will lay it, decide when it is laid and so on. We have been very careful to ensure that.

Going back, I appreciate the point that the hon. Gentleman raised about the Joint Committee. I will explain the reason why we appointed the designate domestic abuse commissioner. I personally interviewed a number of impressive candidates for that role, and there were a couple of reasons why we wanted to appoint the designate domestic abuse commissioner.

First, we knew that the legislation would take time to get through the House and we felt that the commissioner could start the groundwork without their statutory powers, because of course the statutory powers are in the Bill. There was groundwork that she could start with—for example, setting up her office, building relationships and beginning to work out where there were particular areas of work that she wanted to focus on. That could all start, and I have personally found the designate commissioner’s assistance, over the last couple of months in particular, absolutely vital, because she has been key in drawing together the charities that are working on the frontline in the covid-19 crisis. She has a Monday call—she referred to it in her evidence and was kind enough to invite me to attend one of the calls—where she speaks to the sector across the country. She then processes that information and data for the Government,

so that we are able to formulate policies to help in the very time-sensitive manner that we have been able to. I really value her contribution.

The commissioner will, of course, be accountable to Parliament through Select Committees, as the hon. Gentleman said. I certainly expect the Home Affairs Committee to call her, and the Justice Committee may choose to call her too, so there will be accountability.

2.45 pm

Peter Kyle: I am very grateful to the Minister for her tone and the content of her words. What will she do if one of those Select Committees refuses to endorse a candidate that she puts forward? That is the key question. What will she do if it does so, after having a considered set of deliberations, based on sincere and non-partisan evidence? How would she react to that?

Victoria Atkins: Let us take a step back, because I would not want the hon. Gentleman to think that we appointed the designate commissioner on a whim. There is a very careful and methodical appointments process. He can imagine the scrutiny carried out by the legal advisers in the Home Office, the Cabinet Office and elsewhere, who pay attention to how we conduct these appointment processes. It is the same for other commissioners. I also have responsibility for the Independent Anti-Slavery Commissioner, and I do not think anyone would claim that Dame Sara Thornton is not independent and is not an extremely powerful voice in tackling the world of modern slavery. We have careful and methodical appointment processes. I am confident in the two appointments that I have been involved in, and I hope that we have weeded out the sorts of concerns that he is flagging. Once the appointment is made and the Bill is passed, if substantial changes are not made to it, we expect to be able to follow that through.

Peter Kyle: The Minister is being very generous and warm-hearted. I am not sure how she will be in a few days, but for now I fully embrace her generosity. What is the point of a Select Committee scrutinising somebody’s record and background, with a view to a public appointment, if it does not have any power over whether the appointment can go ahead afterwards? Would its time not be best spent doing something else if its conclusions mean nothing when it comes to the final decision?

Victoria Atkins: I again come back to the responsibility of the Minister making the appointment. It is a real responsibility; it is certainly something that weighed heavily on my shoulders. I am conscious that if we miss what we are trying to achieve with the appointment, that will have an impact on not just the commissioner, but the Minister and the Department. Just as the commissioner is accountable to Select Committees, so too are Ministers. Given that we follow the public appointments process, I am satisfied that we will recruit the right person for that role and equivalent roles.

I take the hon. Gentleman’s point, but I draw his attention to the drafting of clause 3. Subsection (3) is there to ensure that the commissioner is not regarded as a servant or agent of the Crown. We say that that supports their independence. I suspect that that will be a feature of amendments to come. With the appointment, we have wanted to ensure that the commissioner is able

[Victoria Atkins]

to start using her statutory powers when the Bill receives Royal Assent. The Committee has already heard reference to the mapping exercise of community-based services that the commissioner will undertake once she has her powers under clause 8. That is something that we have sought her help on, and we very much look forward to her assistance on that.

We want the commissioner to be a powerful voice; we want her to stand up for the victims of domestic abuse and hold public authorities to account where necessary, as is set out in clause 14. I am pleased that the designate commissioner has been welcomed by those working on the frontline, and people who are perhaps not so involved in the day-to-day concerns about domestic abuse can see that she is an expert appointment. She has more than 20 years' experience, and she is bringing her expertise and drive to this crucial role.

Peter Kyle: The Minister has mentioned the designate commissioner's experience and suitability for the job a number of times. I would never want to give the impression that I do not agree with the designate commissioner's suitability for the job, and it is very important for the sector, in the absence of an appointment based on legislation and on parliamentary scrutiny and hearings, to hear the cross-party support for the designate commissioner. I hope that the Minister will accept our support for her as well when she makes her remarks.

Victoria Atkins: I do not think that anyone read into the hon. Gentleman's constructive comments about this appointment anything other than that he was doing his job of scrutinising the wording of the Bill, and I am pleased that the designate commissioner has managed to gain such support in such a short period of time.

I commend the clause to the Committee.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

FUNDING

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

Jess Phillips: These clauses all relate to the powers of the domestic abuse commissioner; there is a huge area of the Bill about her powers and how this role is going to work. As my hon. Friend the Member for Hove and the Minister have said, we all welcome the commissioner.

I want to make some brief comments about the issue that clause 4 deals with, which is funding. It arises from a constructive concern that I had during the evidence sessions and on Second Reading, which is that it appears that if there is something that the Government have not yet got an answer for, possibly for a completely good reason, there is a tiny bit of a willingness for them to say, "We're going to ask the commissioner to do this thing for us."

For example, on Second Reading, there was a push from all sides of the House, as there was from the sector and from the commissioner herself, around the provision

of community-based services. Off the top of my head, the statistic is that 70% of all domestic violence victims are supported in community-based services. The vast majority of people will never end up in refuge accommodation, and that is something that we should continue to facilitate; refuges are absolutely not for everyone.

What concerns me and what we heard from some in the sector—I think it came from the voice in the room that was Suzanne from SafeLives—is that what was announced on Second Reading related to a mapping exercise rather than a duty. In the Bill, we see—it seems like we will see it in many weeks' time—a duty on refuge accommodation, which we certainly all welcome, but there is definitely a desire, which I share, to see a similar duty on community services.

It seems that rather than a duty, the Government are proposing a mapping exercise—they proposed it on Second Reading—by the commissioner, to understand what community-based support exists. As Suzanne told the Committee in her evidence—I have to say, I think I could probably do it here now. If I did not come to the Committee tomorrow, I could probably map out community services, because droves and droves of evidence have been gathered about what community-based support services exist. I feel for the Government, because people like me put in questions such as, "How many bed spaces are there?", when I know full well what the answer is. I understand the concern and the need to map services, and to make sure that we are funding things.

What concerned me a little on Second Reading and in the evidence sessions was that there were a huge number of questions from Members asking the sector what they felt the commissioner should be doing: "What is the commissioner going to do for my group of women? What is the commissioner going to do about this and that?". They were completely reasonable questions to ask, although largely they were asked not of the commissioner, but of the voluntary sector aides and the victims. With the greatest respect to Nicole and her position, I am not sure most victims of domestic violence are too concerned with who the commissioner is, but the sector is.

What concerns me is the commissioner's funding model. I know that there was some argy-bargy and push and pull about the number of days, which letters presented to the Committee on the previous Bill said would be increased. What worries me on staffing, which is dealt with in the next clause, and funding is that the commissioner will end up with all these jobs because, rather than taking direct action, we do another review or more mapping. It starts to ramp up the amount of funding that somebody will need to take on all this extra responsibility.

I want to be absolutely certain and to understand from the Minister what the mechanism is if the commissioner says: "I cannot afford to do this exercise that you have said I should do because I no longer have the funding." What I do not want to see is Parliament scrutinising the domestic abuse commissioner—she and whoever takes the role after her will undoubtedly many times in their career sit in front of the Home Affairs Select Committee—and her being forced to answer: "I couldn't afford to do this exercise or this report into x because we just didn't have the budget."

There seems to be a tendency to push things on to the commissioner that would once upon a time have sat with civil servants in the Home Office. I want an understanding of how the review process and funding will be taken forward and what grounds it will take to make a case to increase the budget, including increases that might be needed for the local boards that are associated with this part of the Bill. I therefore seek reassurance from the Minister.

There is a game that gets played—although certainly not by the Ministers in this Committee—of the devolution of blame. We devolve power, whether it is to Wales or Scotland or to local authorities, whereby the Government hold the whip hand. I am certain that all Governments of all flavours have done this. The Government hold the whip hand in deciding the funding formula or within what constraints that money may be spent. When problems arise we say, “Well, that’s Birmingham City Council’s fault because they are rubbish.” Again, if I was given £1 for every time I heard the invocation of the Welsh NHS, I could fund all community services. What worries me and what I do not want to see is an underfunded commissioner, with the Government saying, “That is the commissioner’s responsibility,” given that ultimately all this policy—everything that flows from the Bill and everything that happens in every single one of our local authorities—

Christine Jardine (Edinburgh West) (LD): We have heard several times today already that the Bill is landmark legislation and that we should be future-proofing it in certain ways. Do I understand from what the hon. Lady says that we have to future-proof it against undermining public confidence, through arguments about whether it has been sufficiently funded and who is to blame for that—and should we take the opportunity at this point to make sure that that argument cannot arise?

3 pm

Jess Phillips: Absolutely. I am not asking for a bottomless pot of funding for the commissioner for ever and ever. I am sure that, even if the Minister were to ask really nicely, the Treasury would tell her no—although it would seem that that is not so much the case now, given that my husband is furloughed at home. The reality, though, is that I do not want to put the commissioner into that position. The Minister invoked the position of the independent anti-slavery commissioner. Of course, we have seen—perhaps not from this appointment, but from previous appointments, when Kevin Hyland was commissioner—that he very much felt there were problems in that particular area. Will the Minister reassure me, first, that we will not be expecting the commissioner to do the job that we do here, the legislators, people with a mandate and elected to office, and that we will not apportion blame where children’s services, for example in local areas, have not been suitably encouraged by the commissioner; and secondly, that where there is a real need for her to do something on which she will then have to answer to a Select Committee, for example, that she will be resourced properly?

Victoria Atkins: I appreciate that this debate has been probing clause 4 and the resources available to the commissioner. We have provided the commissioner with an overall annual budget of over £1 million, which,

among other things, will provide for 10 to 12 staff to support the commissioner in carrying out her functions. In addition to the money from the Home Office, under clause 8(3) we have given the commissioner the power to charge a person—and when we say “person”, we are not talking about an individual but an authority or an organisation—for providing them with advice or assistance under subsection (2). We appreciate that exercises such as mapping community-based services will take a great deal of staff time and resources: it will take relationships across the country.

On the subject of mapping, I remember that just after I was appointed, two and a half years ago, my officials had done a very quick and dirty analysis of community-based services in a particular county—I will not name the county. They had found that there were something like 80 charities in one county who were working to help victims of domestic abuse. They ranged from the largest, national-type charities to the sort of charities where it is my great privilege to meet and discuss their work with their founders, who perhaps have set up a charity to commemorate a loved one who has been killed by a partner, for example. In their individual ways these charities work sometimes at a very local level to provide services. I wish that trying to map that was as easy as one would like it to be, but it is a difficult task, which is why we are asking the commissioner to do that for us. That is not because she is going to be in charge of policy creation but because, with the powers she will have under the Bill, the commissioner will be able to request that information from the public authority, as set out in the Bill. Then she will be able to produce advice and a report.

That touches on the point that the hon. Member for Birmingham, Yardley raised earlier about the meaning of the word “encourage”, and I apologise for not responding to it sooner. We believe that clause 14 is very powerful when read in conjunction with clauses 13 and 15. Clause 14 sets out the powers to request information and assistance from public authorities. Clause 15 sets out the requirement that the public authority must respond within 56 days to the report or the analysis by the commissioner. They report not just to the commissioner, but to the Secretary of State. I do not want to cast aspersions on any particular type of public authority; the public authorities mentioned in clause 14 include nationally known organisations as well as local councils and authorities. If there is a report by the commissioner condemning the conduct of one of those public authorities, and the authority has to respond within 56 days, that is quite a powerful tool for the commissioner. As we have already discussed, the commissioner is also required to lay annual reports before Parliament. It may well be that, as part of her general functions under clause 6, she will want to express her views on the conduct of public authorities in her annual report. Again, I do not want to direct her—she is independent—but this is a way to keep the commissioner and public authorities accountable.

On funding, we know that being in Government is about making tough choices. We have funding for the Home Office to be allocated across a whole host of deserving causes, including policing, counter-terrorism and maintaining a fair and effective immigration system. The budget we have set aside for the domestic abuse commissioner is what we have allocated. In setting

[Victoria Atkins]

that budget, we have looked at the budgets of other commissioners to ensure that it compares favourably, which it does. We will keep the budget under review, and the commissioner will discuss with the Secretary of State her budgetary needs for the forthcoming year. We have provided the commissioner with the available resources, because we want her to be able to fulfil her functions as set out in clause 6. It is not about attributing blame, but about trying to ensure that this new, powerful appointment will help us tackle domestic abuse and that, at both national and local levels, we can utilise what she will bring with her laser-like focus on domestic abuse. Her power and authority flow from clause 6, and I hope we will see real differences—not just nationally but in our constituencies over time, as public authorities realise that they are accountable not just to the public, but to the commissioner.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5

STAFF ETC

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

Peter Kyle: I just want to say a few words about the clause. Again, the Opposition do not oppose it or seek to amend it, but we want to ensure that we get it right. I accept the Minister's previous comments on clause 4, and I was really pleased that she mentioned the role of the voluntary sector and did so in a way that reflected the complex tapestry of the voluntary sector. The fact that there might be many dozens of organisations—perhaps 80-odd—working in one area is something that I am very familiar with, having worked in the voluntary sector previously.

Duplication is a challenge that I faced when I ran the Association of Chief Executives of Voluntary Organisations, the umbrella body that co-ordinated the work of the voluntary sector. We did a lot of work on duplication and on trying to get third-sector organisations to work together and to share expertise and resources. That is more essential now than it ever has been, but it is not a problem that affects just the voluntary sector. I also had the pleasure of being an adviser in the Cabinet Office for almost two years, in 2006 and 2007. When we did one of our what seemed like annual reviews on waste and duplication in the civil service, we found that two committees in the Department for Education were looking at duplication. Just when someone thinks they have seen it all in one sector, they move to another and look beneath another rock.

However, these are important things to bring into our deliberations on clause 5. Clause 5 essentially gives the Secretary of State the power to appoint staff for the commissioner and to appoint the resources for it, and therefore gives the Secretary of State quite considerable oversight and input into the effectiveness of the personnel, or the commissioner, with regards to their ability to work and to be productive, directly impacting the scale of work that they can undertake.

Clause 5(1) states:

“The Secretary of State must provide the Commissioner with—

(a) such staff, and

(b) such accommodation, equipment and other facilities,

as the Secretary of State considers necessary for the carrying out of the Commissioner's functions.”

The key thing here is what

“the Secretary of State considers”,

not what an independent observer or what the commissioner herself considers appropriate for the job. There are two aspects to this: how resources are deemed appropriate in the first place, and whether that is done in conjunction with the commissioner, which I assume it would be in a functional relationship; the Minister is nodding, which is reassuring. However, it is also to do with the appointments themselves, because the Home Office retains the power to oversee and involve itself in some aspect of the recruitment.

My hon. Friend the Member for Birmingham, Yardley mentioned the former independent anti-slavery commissioner. He gave stark evidence before the Joint Committee, which it is worth referring back to, because this is what we have to avoid going forward. It certainly shines a light on what is potentially within the scope of the Bill as drafted. On page 77, paragraph 298 of the Joint Committee's report says:

“Kevin Hyland told us he was concerned that the Secretary of State would have too much control of the Commissioner's budget—referring to the commissioner for domestic abuse—

“the staff employed and the content of the Commissioner's reports. He pointed particularly to the power wielded by the Secretary of State through control of the Commissioner's budget, noting that immediately he took up his post, the Home Office had proposed a reduction in the funds that Parliament had been told he would be given.”

Immediately after that commissioner was appointed, the Home Secretary tried to reduce the funds that Parliament had informed him he would have. These powers for the Home Secretary all exist in the Bill as it stands before us.

The bottom half of that same paragraph says

“he described the process of appointment as ‘unbelievable’, adding: ‘Sometimes I would select staff, and seven months later they had not arrived, or when they did arrive they sometimes waited two or three months for pay. In my 30 years in the police, I never, ever saw that happen once.’ He also described his experience of producing reports which, because they had to be approved by the Secretary of State, had to go through a long process of negotiation with and modification by a number of officials, with the final report not fully representing his views.”

We will come back to the latter point in discussions on future clauses. He raises in his testimony something on which we really need assurance from the Minister. The wording of the Bill as it stands is

“as the Secretary of State considers necessary”.

Therefore, the power is with the Secretary of State, the timing is with the Secretary of State and the amount of resource is with the Secretary of State.

3.15 pm

We seek further reassurance from the Minister that the lessons described by one of the designate commissioner's predecessors in another commission role have been learned, because that was a few years ago. If they have, the designate domestic abuse commissioner will not

have to wait months—seven months—before her staff take office, she will not have the constant to and fro between numerous Ministers, and she will not be publicly promised one set of resource only to find that, when she gets into the office, it has been cut, changed or altered without any consultation at all. All of those powers and the ability to do those things are contained in the Bill. We will not oppose the clause because we understand why the Home Office and the Home Secretary need and desire those powers, but we request the assurance that they will not be abused in the same way they were demonstrably and clearly in the past.

Victoria Atkins: I hope the hon. Gentleman will forgive me if I do not accept his premise in relation to the independent anti-slavery commissioner. I am happy to say that I have a good working relationship with the current commissioner—I think it is good, anyway—and I am not aware of concerns as described by Mr Hyland in relation to the current commissioner. I take that relationship very seriously.

On the control of the Home Secretary in the clause, as the hon. Gentleman put it, I point him to subsection (2) which says:

“Before providing any staff, the Secretary of State must...consult the Commissioner, and obtain the Commissioner’s approval as to the persons to be provided as staff.”

In other words, the appointments cannot happen without the commissioner’s approval. The Secretary of State must also consult the commissioner before providing any accommodation, equipment or other facilities.

Let us be clear: the commissioner is an independent office holder. Ministers cannot and will not dictate their work plan, nor determine their recommendations. We expect the commissioner to provide robust and challenging advice and recommendations to national Government as well as local commissioners. However, we need a degree of ministerial oversight, as with all public bodies.

Peter Kyle: The Minister says that the Home Office does not have the power to direct workflow, but the Home Office does set the framework, and that does dictate the scope and scale of work undertaken. Does she therefore agree that the Home Office has significant input into what work is undertaken?

Victoria Atkins: The draft framework document we published alongside the Bill for colleagues to look at was produced in conjunction with and agreed with the commissioner. Therefore, some of the details we have discussed thus far on this part of the Bill are in the framework document. It is a public document—we are trying to be transparent—and it is made with the agreement of the commissioner, which I think is really important. The reason there has to be a degree of ministerial oversight is so that, for example, we ensure that public money is spent according to Treasury principles. The relationship between the Department and the commissioner will be codified in the framework document as provided for by clause 10.

In terms of the employment of staff, although staff will be employed by the Home Office as civil servants, the Bill, as I say, expressly provides that individual appointments must be approved by the commissioner.

I am pleased to say that the commissioner already has one member of staff as a designate commissioner. Her statutory powers are not yet in force, because we await the passage of the Bill, and the recruitment process will continue as the powers are approved.

It is very much for the commissioner to run her own office. We want a good working relationship with the commissioner. It is in everyone’s interests. That is the basis on which I and, I know, the Under-Secretary of State for Justice, my hon. Friend the Member for Cheltenham, conduct our relationships with, for example, the Victims’ Commissioner, in the case of my hon. Friend, and the commissioners for domestic abuse and modern slavery, in my case.

Peter Kyle: Just to clarify, the arrangement is the same as was described by the previous modern slavery commissioner. The Home Office does not select the individual staff, but internal Home Office recruitment processes might well play a part if it is a matter of secondment, or if there are other processes that need to go through the channels of the Home Office. I am not one of those people who bash the public sector—I think we see excellence in recruitment, human resources and the management of personnel in the public sector—but sometimes things can be slow, and the purpose of an independent commissioner is to bring expertise and entrepreneurialism—the approach from outside—into the heart of Government. Will the Minister assure us that that pace and speed will be matched by Home Office work when it comes to requests by the commissioner?

The Chair: Order. Interventions need to be short. I do not want to be too heavy about it, but I will be if I have to.

Victoria Atkins: I assure the hon. Gentleman that appointments to the commissioner’s office—precisely because they are civil servants—will of comply with civil service terms and conditions and recruitment practice. I hope colleagues will view those as being of a very high standard—objective and meritocratic. As to urging the Home Office to move speedily, I take that challenge forward. We will use our best endeavours because we want the commissioner to be as powerful as she can be as quickly as possible.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

GENERAL FUNCTIONS OF COMMISSIONER

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

Jess Phillips: I note that we are having a wide-ranging debate, and jumping from one clause to another, and I will take some advantage of the fact that the clause is about the general functions of the commissioner to give some general, broad input on this clause and some of those to follow.

As has already been said by pretty much everyone—probably even including myself, although it is hard to remember now—we very much welcome Nicole’s

[*Jess Phillips*]

appointment, and we welcome the invention of a commissioner full stop. In fact, I remember not knowing this building at all well and being brought down here, when the now Victims' Commissioner was a Member of Parliament. The Labour party was running a women's manifesto-building session, in one of the rooms here for victims of domestic violence and those who worked with them. It was long before I even stood for the council, and I just came to this building and gave evidence. One of the things we pushed for then, probably in about 2011, was the creation of a commissioner, so it is incredibly welcome that we are now starting to see those powers come into play. I hope that they will be a catalyst for change in domestic abuse policy. They will certainly allow us to find gaps—or, as the Minister has outlined, over-supply—and, more importantly, solutions to fill those gaps.

In the Joint Committee report published on 14 June, a number of concerns were raised by witnesses and the Committee about the role of the commissioner. Those concerns were also raised at the aforementioned evidence session. Today, I still think that some of them have not been allayed. My hon. Friend the Member for Hove has gone over some of those issues, but there are a few things I wanted to pick up specifically around the commissioner's general functions.

The domestic abuse commissioner has the potential to effect real change in the way domestic abuse services operate. However, for that potential to be realised, we must first ensure that the Bill is amended to resolve the substantial concerns that could stymie the commissioner's remit in terms of independence, resource and power. We have laid some of the amendments to do that.

With regard to the remit, which is in clause 6, my first point is not a complaint but rather a comment as to the operation of the commissioner's role and how best she can make a positive contribution to combat domestic abuse. Notwithstanding comments from witnesses to the Joint Committee and the subsequent recommendations, the Government have made it clear that the role of the commissioner and the Bill are limited to domestic abuse and do not cover other forms of violence against women and girls. One notes from our debates earlier around the definition of domestic abuse that the words "sexual abuse" are within that definition. That has not been ignored. Around 56% of all reported rapes happen within people's marriages. One of the most amazing facts—I say this to schools when I go and visit—is that raping your wife was only made illegal in 1991. So, John Major, that and the cones hotline are things to be very proud of.

The level of sexual violence in domestic abuse cases is shocking, and there is some concern about the functions of the commissioner, whose role is—to be very purist—about domestic abuse. What is her interaction to be with rape and sexual violence organisations such as Rape Crisis England and Wales, for example? That is yet to be ironed out.

Liz Saville Roberts: I just want to draw attention to some of the subsections in clause 6 and the interaction between the domestic abuse commissioner and the Senedd. I can see complications in exactly that area, and it needs clarity.

Jess Phillips: Absolutely, because, in Wales, it is a violence against women and girls situation. The Minister will remember—it might not be as far back as the Investigatory Powers Bill, but it is from way back at the beginning of this particular Bill—that, for many, many moons, we went over the conversation about whether this should be a violence against women and girls Bill. People like me were very much on the side that it should be—that you cannot see domestic violence in a vacuum and that it exists within a framework of patriarchal norms in society. However, I do not make those amendments to this Bill now. We have come an awfully long way and worked very hard together over many years to this point.

In this area, however, there is potential for people to put pressure on the current commissioner. I happened to run a rape crisis service as part of a domestic abuse service. We had a standalone rape crisis service. I can see how I would have said, "Well, they've got a commissioner—I'm just going to go to her." Nicole may very well end up feeling conflicted by that, because much is part of the process.

It is clear that the commissioner must take care to spread her powers as widely as possible, and must ensure that a multi-agency approach is taken and that the needs of the third sector in this regard, specifically, are considered. From the evidence we received in the evidence sessions from the Victims' Commissioner—although we did not hear from the Children's Commissioner, she sent in evidence for us to consider—I am aware that all of the commissioners are working closely together to, for want of a better word, divvy up some of the concerns. We need some clarity on that. The Victims' Commissioner, a woman who has incredible experience in the violence against women and girls area, is also responsible for antisocial behaviour and for victimhood of all kinds, so it will be important to make sure that we have clarity of purpose on remit and functions of the commissioners.

3.30 pm

Referring to clause 11, I also feel that the third sector should be represented on the commissioner's advisory board, together with representatives from marginalised groups, such as migrant women, older people, disabled victims and—dare I say it?—children. The commissioner must also take account of those groups and their respective needs, placing survivors at the heart of everything she does. Following last Thursday's evidence session, there is no question but that the commissioner has taken all of what I am saying on board. I raise it simply to urge her and the Minister to continue to ensure that that is the case.

I mentioned earlier that the violence against women and girls sector can be fractious. The thing that stops it being fractious—we could say this about any sector—is individuals' personalities. If a certain person changes, or two people change, and people get on better and have a friendship and relationship, that will change the approach, so we have to make sure that all the things I have said about the commissioner's functions and role in working with the voluntary sector do not simply rely on the fact that Nicole is a really good egg, but are built into the commissioner's remit and functions.

Although I am hopeful that our new clause on this issue will ensure that the definition of domestic abuse is gendered—that will be for next week, I imagine—I

again urge the commissioner to consider the impact of domestic abuse on women and girls. I am almost certain that the Minister will rise to her feet and say that that will be in the guidance, but it is important to say it.

I have one final point on the remit that is specific to clause 6. As was clear from last week's evidence session, the domestic abuse commissioner has already taken initial steps in establishing a working relationship with the Welsh Government. Areas have already been identified where the domestic abuse commissioner is to work together with the Welsh Government, and there is a clear way for that to perhaps be formalised. Some of the issues of the additional areas of overlap will need to be managed. The Government have provided for the National Assembly for Wales to undertake appropriate scrutiny of how the commissioner's office discharges its duties. However, we ask that the Bill is amended to give the commissioner a duty to consult with partners and agencies in Wales. I know that the right hon. Member for Dwyfor Meirionnydd seeks to do that with one of her amendments. That is very important.

My hon. Friend the Member for Hove has been over some of the issues of independence. What is obvious and appears to have been misjudged, I fear, is that for the commissioner to carry out her wide-ranging role effectively she must be independent. There is no question about that. As we have talked about in clauses 4 and 5, the Secretary of State determines the funding, the staff and the accommodation. I hear what the Minister says about how that will not affect the functions and independence of the commissioner, and I truly hope that that is the case. She alluded to the powers in her remarks on previous clauses: the Secretary of State has the ability to review annual reports and other reports made by the commissioner and to omit certain material. The "omit certain material" worries me, to be completely honest. What is it that we fear? Perhaps the Minister can give examples of what might we worry the commissioner would put into a review that the Secretary of State would wish to omit. The Secretary of State also has powers to approve any strategic plan made by the commissioner and agree any modifications with the commissioner. The Bill does not currently provide particularly well for any disagreement about how those functions might fall out.

The Minister has rightly said that the powers the commissioner will have in clauses 14 and 15 are pretty good—I would like some of those powers. The commissioner can demand an answer and actions from people, but what happens when it is the Home Office that the commissioner is critiquing for the way it has treated victims of violence against women and girls or of domestic abuse? That is, I fear, still the question.

The reality is that, in the functions the Home Office executes, I have seen practice that could definitely be called into question and reviewed by the commissioner. That does not necessarily involve the Ministers in front of me, but the reality is that there has been some bad practice. I worry about how that will work.

Liz Twist (Blaydon) (Lab): Does my hon. Friend agree that the issue at the heart of these clauses, and this clause in particular, is the commissioner's independence and freedom to act? We heard evidence last week that that is a concern and that it would be helpful to have

assurances from the Minister that the domestic abuse commissioner can in fact act independently and without fear of ministerial over-involvement, shall we say?

Jess Phillips: Absolutely. For us, for the commissioner, given her own evidence, and for the sector—for everybody—independence is the single most important thing we wish to see in this role. That is not unreasonable, as my hon. Friend pointed out. Where there is contention—I do not think there is any perception of any contention whatever in the current appointment—it can be used to undermine any report that that person had written. Let us imagine that one of these bodies had to look into a political party and that political party was found wanting. It would be easy for politics to then play the game where we say, "Well, they're just your pals. You're giving jobs to the boys." That undermines the fundamentals of what these bodies are doing. Independence in every part of the commissioner's function is vital. It is to protect their work so there is absolutely no conflict of interest with the Victims' Commissioner, the Children's Commissioner and the domestic abuse commissioner.

My hon. Friend the Member for Blaydon makes an important point, and perhaps the Minister can answer this: who gets to decide if the commissioner should be sacked and should no longer be the commissioner? What grounds would they have to appeal that on? We all sit here with a weird employment status, in that we have no employment status. The people who employ me are the good people of Birmingham, Yardley, but they do not ever turn up to my 360-degree appraisals. No one is giving me the appraisal.

Let us say, for example, that there has to be an investigation by the commissioner into a report of practices by the Home Office regarding victims of domestic abuse, whether through its own policy on the matter or through other, adjoining policies, such as counter-terrorism or immigration. How can we make sure that the commissioner does not get sacked? If the Home Secretary were a Labour Home Secretary—I think this is a tool. With the recent stories, the Home Office has not necessarily been covering itself—

The Chair: Order. I have been quite generous with time, but I have to ensure that Members do not stray from the terms of the Bill Committee.

Jess Phillips: Okay. I just want to ensure that there is an independent process so that if there are problems, they can be solved. I close my remarks on that point.

The commissioner is a welcome position. Almost all the functions laid out in all parts of the Bill regarding the commissioner are to be welcomed and need little amendment. I commend the Ministers and the civil servants involved. I wish to seek some assurances specifically around the independence of the commissioner.

Victoria Atkins: I do not propose to repeat what we have already said, because this theme runs through our discussions. We are conscious of the need for the commissioner not just to be independent, but to be seen to be independent. We have listened to the Joint Committee and its recommendations on this point.

Taking a step back, the Government cannot be accused of being shy of scrutiny on this Bill. The Bill, as published in its original iteration, was scrutinised by the Joint Committee. As those who have been in the House for a while know, that does not happen to every Bill; it is

[Victoria Atkins]

an unusual process. The reason we did that is precisely because we wanted to involve the House in the consideration of the draft Bill before it became the Bill that Parliament would consider formally.

Although politics has got in the way of the Bill's progress, we have used those chapters in the Bill's history to good effect, I hope. For example, since the second iteration of the Bill that came before the House, which managed to reach the first day of Bill Committee just before the General Election, we have been able to insert the duty on local authorities into the Bill. That would have had to be done by way of amendment.

We have changed parts of the Bill in relation to the role of the commissioner, because we listened to what the Joint Committee said. We also listened to what the previous Bill Committee said. The hon. Member for Birmingham, Yardley referred in passing to the fact that the working hours of the commissioner have been changed. In consultation with the designate commissioner, we have extended her role from three days to four days a week, because she told us she was doing four days of work a week. We have listened to that and we have moved.

We also moved in relation to the Joint Committee's recommendations about the laying of reports and strategic plans. In the original iteration, that was conducted through the Home Secretary. As happens with many reports, the report would be given to the Home Secretary and the Home Secretary would lay it before Parliament. We changed that in relation to reports and strategic plans so that the commissioner will lay them directly before Parliament, and she will choose the timing for doing so within the confines of the requirements of clause 12 in relation to strategic plans. We did that because we want her to be able to stand apart from Government and to lay her reports before Parliament as part of her role.

We have further amended the Bill to remove the requirements for the commissioner to submit strategic plans to the Home Secretary for approval. We have changed that so that the Home Secretary is simply consulted on them, and that is significant. I hope it reassures Bill Committee colleagues that, within the framework that we must have for any public role paid for through public funds—we have to have control and ministerial oversight—we have set that out in a way that safeguards independence. I hope people agree.

3.45 pm

Andrew Bowie (West Aberdeenshire and Kincardine) (Con): Clause 6(2) states:

“The things that the Commissioner may do in pursuance of the general duty under subsection (1) include... (g) co-operating with, or working jointly with, public authorities, voluntary organisations and other persons, whether in England and Wales or outside the United Kingdom.”

Does that include the commissioner working with organisations that are also within the United Kingdom but not in places specified in the Bill—in Scotland or in Northern Ireland?

Victoria Atkins: That is a very good point, and I am sure that I will have an answer to it very soon. My hon. Friend has highlighted what we have also tried to achieve in the Bill, which is to respect the devolution settlements

we have with Scotland, Wales and Northern Ireland. Colleagues will know that the second iteration of the Bill had substantial parts dedicated to ensuring that victims of domestic abuse in Northern Ireland had the same protections as we have in England and Wales, but now that the Northern Ireland Assembly has been reinstated, it has taken back responsibility and can deal with these issues in Northern Ireland, which is great news. I wish them Godspeed.

I draw my hon. Friend's attention to the incidental powers set out in clause 9, which states:

“The Commissioner may do anything which the Commissioner considers will facilitate, or is incidental or conducive to, the carrying out of the Commissioner's functions.”

As an aside, the commissioner “may not borrow money”—that is very helpful. I feel that my hon. Friend's point requires further reflection, and we will do that.

The hon. Member for Birmingham, Yardley is absolutely right to raise the point about sexual violence and rape. She is correct to say that this has been one of those knotty subjects where we have listened to a range of views. It was my great pleasure to almost respond on Second Reading to my hon. Friend the Member for Shipley (Philip Davies), who—I think it is probably fair to say—takes a different approach to the hon. Member for Birmingham, Yardley on this matter. We have endeavoured to ensure the definition is gender-neutral, so that we capture victims regardless of gender, but in the statutory guidance we make it clear that it is a gendered crime, because we think that is an important part of the overall consideration of the legislation.

In terms of working with rape and sexual violence charities, the Victims' Commissioner has responsibility for that. She is a formidable commissioner and does not hold back from establishing and proving her independence on a regular basis, for which we are most grateful. Taking a step back, the Victims' Commissioner and designate domestic abuse commissioner clearly have a very good working relationship. They are both highly professional women. With the quality of people we appoint to commissioner roles—although personalities can be really positive and important—I would expect them to behave professionally with each other, and I have very much seen evidence of that. There may well be times when the Victims' Commissioner and the DA commissioner join forces in drawing the Government's attention to issues—they have done so in the last couple of months with the covid-19 crisis—and we welcome that. I hope that reassures hon. Members.

In terms of the advisory board—I apologise for the fact that I am jumping around—the advisory board is for the commissioner to appoint. I will step back from giving a suggestion of what she may or may not wish to do with that, because to do so would, I suspect, undermine all my previous arguments. It is for the commissioner to appoint, and she, I am sure, will be watching this line-by-line scrutiny very carefully. I suspect that the other points that the hon. Member for Birmingham, Yardley raised fit more comfortably in our consideration of clause 7 and the amendments attached to it. If I may, I will hold my fire—that does not feel like a terribly consensual way of phrasing it; I will keep my powder dry instead—on that matter.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

REPORTS

Peter Kyle: I beg to move amendment 43, in clause 7, page 5, line 7, leave out “direct” and insert “request”.

This amendment changes the Bill so that the Secretary of State may request, rather than direct, the Commissioner to omit material from a report.

The Chair: With this it will be convenient to discuss amendment 44, in clause 8, page 5, line 29, leave out “direct” and insert “request”.

This amendment changes the Bill so that the Secretary of State may request, rather than direct, the Commissioner to omit material from any advice.

Peter Kyle: As the Chair said, I will speak to amendments 43 and 44, which relate to clauses 7 and 8. Right hon. and hon. Members will notice that both amendments achieve the same effect: to leave out the word “direct” and insert the word “request”. I do not think the intention of these amendments will come as any surprise. This strikes at the heart of the relationship between the commissioner and Government, and it is about ensuring that the much-vaunted independence of the commissioner, which everybody here accepts is incredibly important, translates into the document before us and into the legislation.

The hon. Member for West Aberdeenshire and Kincardine is welcome to pass me notes at any point in my speech, should he have any comments on it, but I warn him that the Home Office knows where he lives, and we will be looking out for him in his place tomorrow. If he has any other insightful observations, he is very welcome to intervene at any point.

It is incredibly important that this role is functional; it has at its heart a functional relationship between the commissioner and Government, the commissioner and Parliament, and all three involved in overseeing, scrutinising and ensuring that, at the end of the day, policy for domestic abuse is got right. We need to ensure that we get the best out of all three constituent parts of this set of relationships, Parliament, Government and the commissioner.

The most important relationship here is clearly between Government and the commissioner. Time after time, we see words from Government that all of us in this room, and everybody involved on the frontline of supporting victims and survivors of domestic abuse would agree with: the commissioner must be independent. We need to ensure that that aspiration is reflected in the legislation, because ultimately it is the legislation that counts.

It is noticeable throughout clauses 7 and 8, and indeed throughout this part of the Bill, just how much power the Home Office grants itself over the commissioner. That is important, because we cannot have a situation where the commissioner is said to be independent but, when push comes to shove and people have to resort to the law, the law says something different.

Christine Jardine: Does the hon. Gentleman agree that as recently as this week, doubt about whether a review or report that comes before the public has been entirely independent has damaged its impact? I refer to

the Public Health England review of coronavirus, public faith in which was undermined by the fact that sections of it had been left out. The word “direct”, rather than “request”, would inevitably lead people to suspect that reports were not entirely independent.

Peter Kyle: I agree with what the hon. Lady says about that incident, because it is the one that is most recent, striking and relevant to the times in which we live. In order to ease the pressure on Ministers in the room, however, I am willing to concede that successive Governments of different persuasions have been guilty of that at various times. We can all think of reports that have become politicised, thereby diminishing the truth they seek to illuminate, their impact, their credibility and the work of the many people who were involved in producing them. It is incredibly important that the public who read such reports have faith in the independence of those who produce them, and know that the reports are free of political interference.

I do not seek to blame anyone, or to say that this is the first Government to have sought to retain power over quasi-independent bodies and institutions. I understand the desire of the Home Office and all Departments to retain power. I simply make the point that, sometimes, relinquishing some power strengthens relationships and leads to better outcomes. That certainly delivers better results to the frontline. Those who are at the receiving end—those who have recourse to the law and to the commissioner—will have more faith in the system and view it as more credible, and will therefore be more likely to use those services.

The Home Office sets the budget, and the Home Office sets the framework. Earlier, the Minister referred to the framework document and pointed to its consultative nature, which I accept. I have in front of me the draft framework document, which states in section 4.11:

“Although not prescribed by the Act, if the Commissioner does not agree with the Home Secretary’s request to omit material, the process will be as follows”—

this comes to the point made by my hon. Friend the Member for Birmingham, Yardley when she talked about what happens if a dispute arises. I accept the Minister’s response, but the draft framework to which she refers states that the commissioner can make representations to the Director of Public Prosecutions—I beg your pardon; I mean public protection. Perhaps that comes further down the line. I will start again. The draft framework states:

“The Commissioner can make representations to the Director for Public Protection as the Senior Policy Sponsor. A response must be provided within 28 working days.”

That is what is available to the commissioner should there be a disagreement and if the Home Secretary makes a direction with which the commissioner disagrees. The draft framework states:

“If agreement is not reached with the Director for Public Protection, the Commissioner may make representations to the Home Secretary. A response must be provided within 28 working days.

If agreement is not reached with the Home Secretary, the Commissioner may include a note in their report (or advice under section 8(2)) stating that certain information was omitted at the direction of the Home Secretary, but which the Commissioner did not agree was necessary to protect an individual’s safety or to support the investigation or prosecution of an offence.”

[Peter Kyle]

What the framework document actually refers to is that bit of the Bill that enables the Home Office and the Home Secretary to direct the commissioner.

4 pm

The commissioner also needs to submit all sorts of other material to the Home Secretary. For example, draft advice has to be submitted before publication, and other types of announcements need to be checked with the Home Secretary beforehand, but that does not seem to be covered by the draft framework. To be clear, although I understand that the draft document has been through consultation, the Bill says of it—I am looking at clause 10(1)—

“The Secretary of State must issue a document...that deals with matters relating to the Commissioner.”

At the end of the day, the power to direct what to include in the framework still rests with the Home Secretary, who also has the right to view guidance and reports before publication.

The draft framework document does not state, in those circumstances, what happens when there is disagreement between the two. When there is a disagreement that is covered by the draft framework, a period of 28 working days for a response is provided for, followed by another 28-day period in which to get a second opinion. In the meantime, victims and survivors of domestic abuse are out there in our society, in every single one of our constituencies, and they are affected by the advice given by the commissioner. We cannot have three or four months' wait for a response while the to-ing and fro-ing between the Home Secretary, the Home Office and the commissioner is resolved. Often we would be talking just about a couple of words.

The process seems to be overly bureaucratic and disproportionate for the needs and desires expressed by the Home Office and Ministers—what they want to deliver, the intent of this legislation. In the strongest possible terms, I must state that there should not be a wait of almost 60 working days to resolve quite simple disputes.

The solution, to most reasonable people, if we have an independent commissioner who disagrees with the Home Secretary on something that is published in the independent commissioner's name, is that the independent commissioner should have the final say on what goes—or we stop using the word “independent”. If the Home Secretary can direct the independent commissioner on what she can or cannot say, that cannot be classified as independent.

In several other areas, the Home Secretary and the Home Office have power to instruct the commissioner. Any disputes or disagreements then enter a very bureaucratic and time-inefficient process. I remind right hon. and hon. Members that I am seeking to change one word. This is not an amendment that is three pages long, impenetrable and difficult to interpret; this is one word—leave out “direct” and insert “request”. It inverts what is possible.

If it is okay in the eyes of the Home Office for the independent commissioner to put a bullet point at the bottom of a report to say, “I disagree with the Home Secretary on this, but I have been forced to say it,” why

is the opposite not possible? Why is it not possible, given the might of the Home Office and the platform of the Home Secretary, for the commissioner to say, “I agree with 95% of this report, but I disagree with one paragraph”? Why does the Home Secretary always have to get the last word?

In this case, the Home Office just needs to be adult enough to accept that it would generate a lot more respect within the sector if it could just let go from time to time and allow the dissent that it says it encourages.

Jess Phillips: I can think of very few areas in which that will come up as a matter of dissent, so it appears that it can be only a fear of something that might make the Home Office look bad once we remove the option of protecting the identity of the victim and of what might be before the courts, understandably. It seems that it is only there to direct where the victim may have said something bad about the Home Office.

Victoria Atkins *indicated dissent.*

Peter Kyle: The Minister disagrees and her dissent to my hon. Friend's comment is on the record. Whether one agrees or disagrees with my hon. Friend, her point is that it is open to interpretation. People in that situation who are observing from the outside could quite reasonably be left with that interpretation. The amendment actually seeks to protect the Home Office from precisely the circumstances to which she refers, because if the independent commissioner publishes advice that is hard for the Home Office to see, that will spark a public debate between the two that would benefit the sector and show that the independent sector has an independent commissioner, and that the Home Office takes a different view. The buck will always stop with the Home Office, and rightly so.

Clause 8(5) states:

“Before publishing any advice given under this section, the Commissioner must send a draft of what is proposed to be published to the Secretary of State.”

We all understand why that would be the case and why the Home Office would be very keen to engage in that, but if there is a functional relationship at the heart of this, we do not need the power of legislation to engage constructively with each other. From the testimony and the evidence that we heard just last week from the designate commissioner for domestic abuse, it is very clear that she is straining at the bit to be open and constructive, and to engage not just with the Home Office, but with Parliament and all other stakeholders. The Home Office does not need the power of legislation to instruct somebody to do the very thing that is at the heart of a functional relationship between two organisations of this nature.

I accept that the Home Office is cautious and that Home Office Ministers are right to be cautious. The Home Office deals with law enforcement and the denial of people's liberty. That is why the Home Office always has to be very careful with such pieces of legislation, and I know that the two Ministers take incredibly seriously the responsibility and the burden of the decisions that are made in the name of the legislation that they pass and uphold in their work. The inclination to retain as much overall power as possible defeats some of the

objectives that the Home Office seeks to achieve. Although it must be an overwhelming temptation—even for understandable reasons—I urge the Home Office to have faith in the people whom it appoints.

Because of the previous conversations and exchanges that we have had, I think that we have had some fascinating exchanges already in the proceedings on the Bill today, and I believe that the Minister has been very sincere in her determination as to the way the commissioner is appointed in future. But this is really important: if we are to take the Minister at her word, why does she need the power in legislation to have the final word all the time? If the person appointed has been through an inscrutable process within the Home Office and if their background is absolutely first rate, why does the Minister need the power always to instruct them, to direct them?

I believe that the person described in the appointment process is the sort of person who does not need to be kept on a tight leash and who would benefit from more freedom in the role. That is the sort of thing we could test in this legislation, and it would then have an impact on future appointments and the creation of other roles. I think that this role would be more fruitful, productive and effective if it were approached in a less paternalistic way.

When Nicole Jacobs's appointment was announced last September, the Home Office statement heralded the role as one that

“will lead on driving improvements”.

Quite rightly, the designate commissioner's qualifications to do just that were highlighted, and that speaks for itself. But time and again, the legislation that puts her role on a statutory footing limits the freedom that she has to do just that. Reading it, one would be forgiven for thinking that it is less a statutory footing and more a meddlers' charter. The Home Secretary has the right to meddle in almost every aspect of the commissioner's role, from the advice that is given publicly to the reports that are produced. For every aspect of the key work that is done by the “independent” commissioner, the Home Secretary, the Home Office and a plethora of officials at different levels have the right to involve themselves in the way the work is done. I do not think that is in line with what Ministers, in their hearts, really want to happen. I think they are saying that they want to have a certain relationship, but when it comes to defining it in law, they cannot quite bring themselves to put in writing what is in their heads and hearts.

Aspects of part 2 of the Bill give more power to the Home Secretary than to the commissioner herself, and part 2 is designed to create the commissioner. This is really serious: the moment a Home Secretary “directs” the commissioner, the commissioner ceases to be—in the words of the Home Secretary herself, in the statement released on the appointment—

“a voice for those who need it most.”

I say that because if the Home Secretary has changed the words that the independent commissioner uses, they are the words not of the independent commissioner but of the Home Secretary. That is the very moment at which the sector itself will start to lose faith. We will have a sector and victims and survivors losing faith in their voice, their advocate, the person who has the best access to Parliament, to Government and to every Department of Government, not just the Home Office—she

has the right, under the Bill, to engage with Departments right across Government. Once faith in that role is gone, it will be very hard to get it back and the ability of the commissioner to advocate, to give voice and to bring about change will be diminished.

I do not believe that is what Ministers want, and I do not believe that is the intent of the legislation. I truly believe that what they want is a commissioner who has the right to act, in the words of the Home Secretary, as “a voice for those who need it most.”

What we cannot do, as any parent knows—I am not a parent—is tell a child, “You have the right to a voice, but I'll tell you what to say.” That just does not work. I know that my hon. Friend the Member for Birmingham, Yardley would not even attempt to do such a thing in her household—I have met her children and know that they would see straight through it.

4.15 pm

Success or failure for the commissioner depends on the confidence she can generate and maintain in the complex stakeholder network among the domestic abuse community,

from campaign groups to frontline support agencies, enforcement bodies and the judiciary. Most importantly, she needs the confidence of victims and survivors. I know that Ministers want this role to be a success, and for all the right reasons. I hope that they will see that a little less control-freakery and a little more trust is likely to deliver that success.

Amendments 43 and 44 would simply substitute the word “direct” with “request”—nothing more. They would change neither the nature and outcome of the Bill, nor the role and function of the commissioner. They seek to level the relationship between the Home Office and the commissioner and foster a more functional partnership between all parties. Victims and campaigners would know that the commissioner speaks for them and them alone, and for their interests and their interests alone. I believe that is what the legislation should deliver.

Victoria Atkins: I am going to tackle head-on the criticism about reports, but first I want to make it plain why the reports are so important and to explain how they come about. It is for the commissioner to decide what her reports concern. It is for the commissioner to publish every report that is made under clause 7. It is the commissioner who decides what she will report on. In practice, the reports will flow from the strategic plan set out in clause 12, but it is the commissioner who has that power.

These thematic reports will be an absolutely central part of the commissioner's work. They will be the key mechanism for discharging the commissioner's functions under clause 6, and they will identify and publicise good practice but also highlight areas for improvement. I emphasise again that the reports must be published. There is no facility in the Bill for reports to be swept under the carpet or delayed. The commissioner publishes them, not the Home Secretary. A great deal of the commissioner's power comes from clause 7.

The hon. Gentleman quite rightly raises subsection 4, which states:

[Victoria Atkins]

“The Secretary of State may direct the Commissioner to omit material from any report under this section before publication if the Secretary of State thinks the publication of that material—

(a) might jeopardise the safety of any person, or

(b) might prejudice the investigation or prosecution of an offence.”

There is nothing in subsection 4 that says, “Oh well, if the report makes the Government look bad, the Home Secretary can omit that.” There is nothing that says, “It’s not terribly helpful, and the timing is bad.” There are two very narrow grounds: jeopardising the safety of any person; and prejudicing the investigation or prosecution of an offence. Because we are so careful about the commissioner’s independence, we have taken the trouble in the draft framework document—the draft document drawn up in consultation with and approved by the commissioner—to try to set out a framework. Therefore, in the—I accept—diminishingly small possibility that the subsection will be used, there is a clear process as to how such disagreements can be resolved.

The ultimate sanction is not, I think, the Home Secretary redacting a name, a location or whatever is needed to protect the person named in the report; it is the last paragraph of the framework document, which says:

“If agreement is not reached with the Home Secretary, the Commissioner may include a note in their report...stating that certain information was omitted at the direction of the Home Secretary, but which the Commissioner did not agree was necessary to protect an individual’s safety or to support the investigation or prosecution of an offence.”

I do not want to speculate about how such circumstances may arise, but I am clear that if a report had a note like that in it, I would expect to be answering an urgent question on it the very next day.

Peter Kyle: The Minister comes right to the heart of the matter, as she characteristically does. However, when she was having debates and discussions with officials and colleagues about how to approach this part of the Bill, why was it decided that the final say should stay with the Home Secretary, with the commissioner needing to publish a note saying that she disagrees, rather than the other way round, with the independent commissioner able to publish what she likes while the Home Secretary publishes a little paragraph pointing out the bit that she did not agree with?

Victoria Atkins: It comes down to accountability at the Dispatch Box. As I say, there is a diminishingly small likelihood of that happening, but that does not mean that we can ignore it. I speak as someone who used to prosecute serious organised crime and spent a great deal of my career as disclosure counsel redacting documents and asking for protection from courts for documents that may, or have the potential to, undermine and jeopardise the safety of people for a variety of reasons, so this is something close to my heart. The power to omit this very narrowly constructed category of information is there to protect a person or to protect the prosecution or investigation of an offence. Accountability for that must fall ultimately on the Home Secretary or the Minister at the Dispatch Box.

I will give an example. I have tried not to speculate, because we all know, particularly in this field, that the ability of human beings to commit harm and to hurt other human beings seems almost infinite at times. Apologies that I cannot give details; I am treading very carefully for reasons that will become clear. A little while ago I was alerted to a mother and her family who had had to flee a house where there was a violently abusive relationship—she was fleeing in fear of her life. The circumstances of her fleeing were, shall we say, notorious in the local community, because the wider family have a reputation and presence in the local community that reaches far beyond the Bill. A person in public life inadvertently, for completely innocent reasons, made a comment about the manner in which that family fled. The concern—it was a very real concern—was that that public official, who had not really understood the ramifications of their commentary, had inadvertently put that victim and her family at significant risk.

Forgive me; I cannot go into more detail because I do not want to alert, but I put that forward because there are occasions where we have to look at not just the immediate circumstances but the possible ever-flowing ramifications that may result from a seemingly innocent assertion. I have complete faith in the designate domestic abuse commissioner that we will not get to a place where we are having to put notes in reports. I have to maintain this very narrowly constructed caveat to this otherwise wide-ranging and free power to safeguard any people or to safeguard investigations or prosecutions for offences that may not be immediately apparent when looking at the very specific circumstances of a case.

To give reassurance as well, I have asked whether this provision is in other pieces of legislation. It is in the Modern Slavery Act 2015 and indeed, it is wider there because the Home Secretary can also omit material for the purposes of national security. If one thinks about modern slavery, that makes sense because of international criminal gangs. I reassure the Committee that this provision exists in other legislation, it is very narrowly defined there and it is not about making the Government look bad or look good. It is about safeguarding people’s safety.

Jess Phillips: The Minister is incredibly reassuring on the point. With regard to the case she is talking about, I do not wish to gather any details. I have handled cases about misdemeanours of people in this place or of their friends, as we all know, and I seek similar reassurances that this power will never be used in a case that might be used to protect a friend of somebody in power or somebody in this place.

Victoria Atkins: The hon. Lady does not just need my reassurance. We have this framework—I appreciate it is a slightly tortuous process—where a very senior civil servant makes the first decision. It then goes to the Home Secretary and we then have the commissioner with the ability to put that note in the report. We have the reassurance of a very senior civil servant, with all the responsibilities the civil service bear in relation to ensuring they act within the Nolan principles and so on. We have that safeguard. We then have the Home Secretary, who has their own responsibilities under the ministerial code and being at the Dispatch Box, and then we have the commissioner being able to put that in her report. I

hope that reassures hon. Members about this aspect of the report and clause 8. I invite the hon. Member for Hove to withdraw his amendment.

Peter Kyle: I am grateful to the Minister for her explanation. I will withdraw the amendment.

The Minister will note from the theme of the comments I have been making during the two sittings today that my Front-Bench colleagues and I are concerned not only by the specific parts of the Bill that give power to interfere with the commissioner's work. Added up, there is the opportunity to make the commissioner's work overly bureaucratic, slow and sometimes focused too much towards pleasing the paymaster and not enough towards serving the victims and survivors, for whom the commissioner exists to give voice. This was a good possibility to ventilate those in a focused way, but I hope the Minister realises that we feel strongly about the independence of the commissioner. We will talk about this more later, on other amendments on aspects of the commissioner's independence.

I hope the Minister recognises the strength of feeling towards a hands-off approach. There was a period in Parliament when there was a very rapid turnaround in Ministers on the Front Bench. Time after time we heard, "I don't want this to happen; my intention isn't this." Then three weeks later another Minister with another direction would say, "No, I am really focused on this." That is why getting the letter of the law right is necessary, and why we need the Bill absolutely nailed down.

4.30 pm

We talk about the relationship between the Home Secretary and the commissioner as if the relationship is between two people. The commissioner is likely to have two, three or four members of staff and the Home Office employs tens of thousands, so the relationship will be between one or two people and potentially dozens of others. What we want is a real grip at the centre and a real drive as the relationship goes forward to empowering and making sure they enable the independence rather than just putting it in writing. That said, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 7 ordered to stand part of the Bill.

Clauses 8 to 10 ordered to stand part of the Bill.

Clause 11

ADVISORY BOARD

Liz Saville Roberts: I beg to move amendment 28, in clause 11, page 7, line 7, at end insert

"in England;

(aa) at least one person appearing to the Commissioner to represent the interests of victims of domestic abuse in Wales;".

This amendment would require representation for domestic abuse victims in Wales, ensuring that both the interests of domestic abuse victims in England and Wales are equally addressed.

Diolch yn fawr iawn, Ms Buck. Amendment 28 would protect the interests of domestic abuse victims in both England and Wales as it recognises that the experiences

and challenges faced by victims in both countries are in some respects different. It endeavours to smooth the jagged edge of the victim's experience of justice in the context of devolution, as was mentioned earlier. The amendment calls for at least one person from Wales to be given a position on the commissioner's advisory board in order to adequately address the specific concerns of domestic abuse victims in Wales. I note that it is the commissioner's role to appoint board members. None the less, the Bill already specifies six roles of members, of which there are four that specify England. I also note the Joint Committee's recommendation on a duty to consult, and Wales deserves a mention, given that there are so many other roles—six roles—already specifically mentioned, four of which specify England.

Although the designate domestic abuse commissioner has already done excellent work in co-operating with organisations in Wales, my amendment would formalise the relationship. I spoke earlier to the domestic abuse commissioner on this matter, and I welcome her actions so far. She has been in regular contact, as many of us are, with Welsh Women's Aid and many other organisations on covid-19. She is intent on appointing a member of staff who will be able to specialise in Wales matters, but the specific point of ensuring a voice from victims ideally in Wales, but certainly a voice from Wales on the board, is critical, given that this is a piece of England and Wales legislation and we do, as we have already heard, have legislation specifically on this matter in Wales. I beg the Minister sincerely to consider putting this in the Bill, regardless of what she said previously about the commissioner's role to appoint the board. It is specified for the other roles and it is becoming apparent that the interplay between England and Wales is quite complicated, so I think that for this to be effective Wales deserves representation to be specified on the board.

We also heard about the importance of differentiating our response to domestic abuse in both England and Wales from the CEO of Welsh Women's Aid, Sara Kirkpatrick, in last Thursday's evidence session. She rightly pointed out that clarity is incredibly important in the context of devolution, especially when it comes to understanding what funding is devolved and what is not, and how services are then actually available. That can have an impact on survivors and victims in Wales.

Ms Kirkpatrick made the point that Wales is physically different from England, in that our population overall is more rural. We must therefore provide frontline services to victims of domestic abuse that are adapted to the specific nature and geography of rural communities. I say that representing a constituency such as Dwyfor Meirionnydd, in which we do not even have a court any longer. The nearest court can be 60 miles away from people; I know that will be true for other Members here. That is the true experience for people on the ground in Wales, particularly those who are distanced from the southern, urban areas. Welsh Women's Aid published a brief in the last month on rurality and domestic abuse, which includes a significant analysis of specific issues faced by survivors in rural communities in Wales.

I am aware that time is going by, so I will touch on some points, in part to have them on the record but also to reflect the fact that Wales has specific issues. The first point is that services are not always available to Welsh speakers through the medium of their first language. Particularly in my constituency, many service users who

[*Liz Saville Roberts*]

come into contact with public services are used to receiving their services through the medium of Welsh. It is a matter of rights for the individual, but it is also what people expect day to day. That is a significant area and evidently unique to Wales.

I will touch briefly on the matters that came up in the Welsh Women's Aid report, "Are you listening and am I being heard?". On the ability of survivors to access and engage with services, there is a fear within rural areas that if people gain access to services where they may well know the people who are providing them, they do not know how confidential those are likely to be. That in itself creates a reluctance to come forward to people such as the local police officer, the GP, court officials and other community leaders. If people are reluctant to come forward, how do we overcome that in a way that is accessible to them?

I touched on the matter of courts. Public transport issues are also a real issue in areas of Wales. In this age of digital by default, broadband access in certain areas of rural Wales is also patchy.

Fay Jones (Brecon and Radnorshire) (Con): I sympathise with many of the points the right hon. Lady is making, but some of the areas and obstacles that she has highlighted are issues that are relevant in England and Scotland. Why is the experience of a Welsh victim so singularly different, when those characteristics are the same in England, Scotland and other parts of the United Kingdom?

Liz Saville Roberts: Indeed. The experience of rurality will be common across other nations of the United Kingdom, but overlying that is the fact that we have a separate legislature in Wales that is producing separate legislation. We want to make sure that with the different range of provision, interested bodies and services providers, we are none the less cutting through to survivors, victims and perpetrators, in the way that is intended, and that the fact that we have a difference between England and Wales is not missed out. If we can specify four roles on the board for specifically English aspects, I cannot imagine the justification for Wales not to be represented there as well, with its separate legislation.

In the report, points are made about hospital services being provided at a distance, as well as legal practice and provision. The reality of the experience of survivors is that access to legal services is more challenging in Wales than in many areas of England, for no specific reason, as is access to services for survivors who have fled from abusive relationships and been placed in rural areas. This is often combined with the fact that survivors do not know the community around them, and that certain properties will be known to be places where survivors are placed. We have to be very careful how we handle that.

Jess Phillips: I am not sure whether this is just by virtue of Birmingham being relatively near Wales, but in refuge accommodation services the connection between women moving across borders between Wales and Birmingham services is very common, for example women from Cardiff or Swansea were crossing the border to be housed in Birmingham and vice versa for safety reasons. I am sure that is one of the right hon. Lady's concerns: how we can ensure this all works well together.

Liz Saville Roberts: Without mentioning them, there are certain communities in my constituency where private landlords are very inclined to take people in from public service sources in England, and from those individuals' experience, they are used to one set of services being available to them in one place, and they find themselves receiving an entirely different set of services, often with their children going into Welsh medium education, in another. Survivors have to undertake the experience of that difference.

I am grateful for the opportunity to explain some of the experiences and scenarios on the ground in my own constituency and other places in Wales, but the fundamental thing that is crying out to be remedied here is the fact that it is possible for this legislation to specify certain roles on the advisory board. Alongside the fact that the Joint Committee recommended that consultation be undertaken with Wales, I beg the Minister to consider that it would be deeply appropriate to include Wales in this, because, otherwise, we will set the domestic abuse commissioner up to be falsely accused of not taking into consideration aspects that we have considered in this place, and this would be an obvious remedy to do that. I look forward to the Minister's response.

Alex Davies-Jones (Pontypridd) (Lab): I thank the right hon. Member for Dwyfor Meirionnydd for her contribution, which I support. I am always one for standing up and giving a voice to Wales and I feel that Wales desperately needs a voice in the Bill, which straddles both nations and they should be equally represented.

One in four women in Wales experience domestic violence at the hands of a partner in their lifetime. They need a voice on this advisory board too. We have seen the ground-breaking legislation in Wales. Thanks to the Welsh Labour Government, we have the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. We have already discussed the importance of the legislation aligning with the devolved Government, so that we do not have any gaps and inconsistencies, which people can fall through.

It is vital that Wales has a voice and is represented. We know that the domestic abuse commissioner has an effective consultative remit with survivors and services in Wales, to ensure there is an understanding of the context as to how devolved and non-devolved competency areas interact, but this must be done effectively to ensure that the board has representation from Wales, so that non-devolved survivors and services are given that voice. Currently the Bill only allows representation for voluntary organisations in England and that must be changed. I fully support this amendment and I urge members across the House to do so. I know there are hon. Members from Wales who would want Wales to be represented at all levels in the Bill, so I urge them to support this amendment.

Jess Phillips: I wonder about specific issues that this Bill—perhaps not yet, but potentially—covers, such as welfare and immigration. We heard from the commissioner herself that an onus was put on what she would be expected to do around the issue, specifically, of migrant women. Obviously, that does not sit within the remit of the Senedd, so there is a vital need for Wales to have representation.

Alex Davies-Jones: Absolutely. There definitely needs to be a cohesive relationship between the Senedd, the UK Government and the commissioner to ensure that all gaps are filled and that nobody falls through the gaps, in terms of competency of what is devolved and what is not, so I absolutely would support that.

Victoria Atkins: I thank the right hon. Member for Dwyfor Meirionnydd for standing up for Wales. I do not want to get into a comparison of rural areas, but I do not have a court in my constituency either, nor do I have any train line, but that is a campaign for my constituency—other than the Lincolnshire Wolds steam railway, I should say.

I quite understand why the right hon. Lady has raised this, and I hope that she is reading particularly clause 11(4); she will see that we have been meticulous in respecting the devolution settlement in Wales and drafting the membership accordingly. The reason subsection (4)(b) refers to

“charities and other voluntary organisations that work with victims of domestic abuse in England”,

is that we respect that under the devolution settlement Wales is able to do, and indeed is doing, so much to look after its own victims. The same goes with healthcare services and social care services in England; they are specified precisely because of the devolution arrangements.

We have been very sensitive to the wish of the Welsh Government to continue their own programmes of work on this—indeed, the right hon. Lady has set out some of them—so we have been clear that the commissioner’s remit in Wales is restricted to reserved matters such as policing and criminal, civil and family justice. The membership of the advisory body, as set out in subsection (4), reflects the division of responsibilities.

However, in addition to seeking advice from the advisory board, the commissioner is not prevented from consulting Welsh bodies, whether devolved or not, to learn from their experience or to conduct joint work. I welcome that sort of co-operation and I expect the commissioner to work closely with the Welsh Government’s national advisers.

Fay Jones: It is important to bear in mind that the designate commissioner last week made clear her intention to work hand in hand with the Welsh Government. I think she told us last week that she speaks to them on a weekly basis. That is evidence that we must bear in mind of the way in which we can work so closely together.

Victoria Atkins: My hon. Friend is absolutely right. It is about respecting the devolution settlement and being alive to different approaches that each may take, while also supporting each other and co-ordinating work. I hope that explains why the compulsory membership of the board is set out as it is. Of course, the commissioner can appoint up to four members outside that list, and I trust her good judgment to get the balance right. I reflect on the fact that we have been having conversations about how independent the commissioner must be, and we have tried in to keep that balance right.

Liz Saville Roberts: Will the Minister consider the risk of being open to the accusation that victims in Wales therefore have no voice with the domestic abuse commissioner?

Victoria Atkins: I think that would be very unfair on the commissioner. Let us not forget that, alongside the advisory board, the commissioner will be required to establish a victims and survivors advisory group. That is in the terms and conditions of her employment, and it is left to the commissioner to draw the group together herself. Again, I am sure she is watching these scrutiny proceedings very closely, and she will have listened to that concern.

I will draw back from making any requests or directions of the commissioner in that regard, but she has been clear throughout this process that she is keen to respect devolution, but also to work closely with the Welsh Government and Welsh national advisers where it is appropriate and possible to do so. As I say, given that there is the flexibility, given that we have heard from the commissioner herself about her intentions and given that she is required to establish a victims and survivors advisory group, I hope that the concerns expressed by the right hon. Lady will be allayed.

Liz Saville Roberts: I will withdraw the amendment for now, but I will hope to raise this further with the Minister in future. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned.
—(*Rebecca Harris.*)

4.49 pm

Adjourned till Wednesday 10 June at Twenty-five minutes past Nine o'clock.

Written evidence reported to the House

DAB36 Dr Ruth Lewis (Northumbria University), Dr Matthew Hall (Arden University), and Professor Jeff Hearn (University of Huddersfield and Hanken School of Economics, Finland)

DAB37 Violence Abuse and Mental Health Network (VAMHN)

DAB38 AVA (Against Violence and Abuse)

DAB39 Action for Children

DAB40 FiLiA

DAB41 The Law Society of England and Wales

DAB42 Women Against Rape

DAB43 Children's Commissioner

DAB44 Joint submission from 18 children's, domestic abuse and VAWG sector organisations and experts

DAB45 The London Assembly

DAB46 Lloyds Bank Foundation for England and Wales

DAB47 Cassandra Wiener, Doctoral Researcher and Associate Tutor at the School of Law, Politics & Sociology, University of Sussex

DAB48 Mayor of London

DAB49 The Children's Society

DAB50 HM Government

DAB51 Mark Tierney

DAB52 NSPCC

DAB53 Carla James

DAB54 Chartered Institute of Housing

DAB55 Vanessa d'Esterre - Domestic Abuse specialist and expert by experience

DAB56 Tim Tierney

DAB57 INCADVA (Inter-Collegiate and Agency Domestic Violence Abuse) Forum

DAB58 Attenti

DAB59 Equality and Human Rights Commission (EHRC)

DAB60 Mr Andrew Pain

DAB61 Ian McNicholl

DAB62 Philipp Tanzer