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HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

DOMESTIC ABUSE BILL

Eighth Sitting

Thursday 11 June 2020

(Afternoon)

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Monday 15 June 2020

The Committee consisted of the following Members:

Chairs: Mr Peter Bone, † Ms Karen Buck

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

Jo Dodd, Kevin Maddison, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 11 June 2020

(Afternoon)

[Ms Karen Buck *in the Chair*]

Domestic Abuse Bill

2 pm

Clauses 54 and 55 ordered to stand part of the Bill.

Clause 56

Guidance

Jess Phillips (Birmingham, Yardley) (Lab): I beg to move amendment 81, in clause 56, page 36, line 22, at end insert—

"(2A) Before issuing guidance under this section the Secretary of State must lay a draft of the guidance before Parliament.

(2B) Guidance under this section comes into force in accordance with regulations made by the Secretary of State."

This amendment requires the Secretary of State to lay any guidance under this section before Parliament and provides that this guidance will come into force in accordance with regulations made by the Secretary of State.

The Chair: With this it will be convenient to discuss amendment 82, in clause 56, page 36, line 28, at end insert—

"(ba) persons, groups and organisations providing support and services with those affected by domestic abuse locally, regionally and nationally, and in particular those working with or providing specialist support services to affected women and children,".

This amendment sets out additional persons, groups and organisations the Secretary of State must consult.

Jess Phillips: I will not speak for long. We have already gone over lots of what is in this amendment, including in the large and wide-ranging debate we had on part 4 of the Bill. Some of what the Minister has said gives me hope that we will get more detail on how this will be administered. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 56 ordered to stand part of the Bill.

Clause 57

Interpretation of Part 4

Amendment made: 36, in clause 57, page 37, line 1, after "London" insert

"in its capacity as a local authority".—*(Victoria Atkins.)*

This amendment clarifies that the reference to the Common Council of the City of London in the definition of "local authority" for the purposes of Part 4 of the Bill is to the Common Council in its capacity as a local authority.

Clause 57, as amended, ordered to stand part of the Bill.

Clause 58

Special measures directions in cases involving domestic abuse

Christine Jardine (Edinburgh West) (LD): I beg to move amendment 54, in clause 58, page 37, line 32, at end insert—

"(3A) In cases where it is alleged that domestic abuse is involved, Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in case of vulnerable and intimidated witnesses) applies to proceedings in the family court as it applies to criminal proceedings, but with any necessary modifications."

This amendment extends statutory eligibility for special measures to the family court in cases where domestic abuse is involved.

The Chair: With this it will be convenient to discuss new clause 45—*Special measures (civil and family proceedings): domestic abuse*—

"(1) In civil and family proceedings, a witness is eligible for assistance by virtue of this section if they were, or are at risk of being, the victim of domestic abuse from—

(a) another party to the proceedings; or

(b) the family member of another party to the proceedings.

(2) The court's duty under subsection (1) applies as soon as allegations of domestic abuse are raised after the start of proceedings and continue until the resolution of the proceedings.

(3) In determining the measures to make available to the witness, the court should consider—

(a) whether one or more measures should be made available; and

(b) any views expressed by the witness.

(4) The measures referred to in this section are those which—

(a) prevent a witness from seeing another witness;

(b) allow a witness to participate in proceedings;

(c) allow a witness to give evidence by live link;

(d) provide for a witness to use a device to help communicate;

(e) provide for a witness to participate in proceedings with the assistance of an intermediary;

(f) provide for a witness to be questioned in court with the assistance of an intermediary; or

(g) do anything else provided for in Civil Procedure Rules or Family Procedure Rules.

(5) Rules of court made for the purposes of providing assistance to eligible witnesses shall apply—

(a) to the extent provided by the rules of court, and

(b) subject to any modifications provided by rules of court.

(6) In this section—

"the court" means the family court, county court or the High Court;

"witness", in relation to any proceedings, includes a party to the proceedings;

"proceedings" means civil or family proceedings;

"live link" means a live television link or other arrangement whereby a witness or party, while absent from the courtroom or other place where the proceedings are being held, is able to see and hear a person there and to be seen and heard by the judge, legal representatives acting in the proceedings and other persons appointed to assist a witness or party."

This new clause would ensure that victims of domestic abuse have access to special measures in both civil and family proceedings.

Christine Jardine: The Bill extends special measures in criminal courts, such as screens or video links, to include domestic abuse survivors. However, unfortunately, it does not ensure similar protections in civil and family courts. The amendment would extend eligibility for these measures to family courts in cases where domestic abuse is involved.

Special measures were originally implemented in criminal courts by the Youth Justice and Criminal Evidence Act 1999, and are automatically provided to child witnesses, witnesses with mental or physical disabilities, complainants of sexual offences, or victims of serious crime who might also be regarded as intimidated, including victims of domestic abuse. However, in family courts, provision for the use of special measures is not currently based in legislation, but in the Family Procedure Rules 2010. Those rules set out the way in which courts should deal with family proceedings, and include practice directions intended to protect victims. Practice direction 12J sets out the procedure for members of the judiciary and provides for special measures.

In November 2017, the Ministry of Justice introduced a new practice direction setting out the recommended procedure for judges dealing with vulnerable persons in family proceedings, including those with concerns in relation to domestic abuse. It provides for special measures to ensure that the participation and quality of evidence of parties is not diminished. Practice direction 3AA, "Vulnerable persons: participation in proceedings and giving evidence", states that

"the court may use its general case management powers as it considers appropriate to facilitate the party's participation."

According to the 2012 Rights of Women report, however, special measures were not advertised in family court, and were rarely ordered at that time. A more recent report by Women's Aid in 2018 found that 61% of domestic abuse victims who participated in a survey were not provided with special measures in a family court. I mention these things to draw the Committee's attention to the fact that, while there might appear to be measures at the moment in family courts, they are perhaps not effective, and many women who appear in the family court in domestic cases are not aware of them. Domestic abuse often surfaces in family law cases dealing with divorce or childcare arrangements. In 2018, 45% of cases in family court were matrimonial matters. Parental disputes concerning the upbringing of children accounted for 20% of cases. Intimate partner abuse has been found to be a factor in around half of child contact cases in England and Wales.

Often, women have been subjected to long-term violent and emotional abuse, and family court proceedings can be a negative experience, in much the same way as criminal ones, where they are offered protection. Such proceedings can even be used as another forum for abuse and control by perpetrators. The all-party parliamentary group on domestic violence and abuse found that victims of domestic abuse reported feeling re-victimised and re-traumatised through the family court process. In 2012, a report by Rights of Women, a women's charity providing legal information and advice, outlined how victims of domestic abuse suffer intimidation and harassment from their former partners, and that they often feel unsafe during the court procedure in a family court. I cannot imagine what it must be like to be a survivor of domestic abuse, and find myself in a family court in a divorce, which is not easy and can be painful even when it is amicable.

Virginia Crosbie (Ynys Môn) (Con): Does the hon. Member agree that the Bill, as it stands, will transform the experience of victims of abuse in family courts by banning the cross-examination of perpetrators of domestic and sexual abuse?

Christine Jardine: That is the next clause, I believe. There is no measure we can take in the Bill that goes too far, or that could be regarded as being in any way sufficient, until we can do no more. No length is too great when it comes to protecting women. Banning cross-examination by perpetrators of domestic abuse is valuable, but it must be written in the legislation that special measures are available. It is not just women themselves who will be cross-examined; it might be their children. It is about coming in and out of the court. It is about having to face the person who has abused them—often for decades—in a corridor because they did not have a special entrance. We need to look at all these things. I cannot imagine what that would be like. No step is too far.

In 2018, Women's Aid found that 24% of respondents had been cross-examined by their abusive ex-partner in the family court, and that was traumatising for them, so I do agree with the hon. Lady. Victims can feel that their experiences have been minimised in proceedings, and if protective measures are not granted by courts, they will be exacerbating that and letting these women down.

Christine Harrison from the University of Warwick has concluded that domestic abuse was and is persistently minimised and dismissed as irrelevant in private law proceedings. Lesley Laing from the University of Sydney in Australia has also found that accounts of engagement with the system often mirror domestic violence narratives. That is known as secondary victimisation, and it is not acceptable.

Resolution, the family justice charity, has said that although there have been changes to the family procedure rules, it is widely recognised that current special measures facilities in family court hearings—such as video and audio link, and screen facilities—are not satisfactory or on a par with the facilities available in the criminal courts. Resolution's members, who are family lawyers, have raised their concerns.

We have talked about the Bill for three years as landmark legislation—a once in a generation opportunity to tackle domestic abuse. However, if we exclude the family courts from the Bill, we will miss a valuable opportunity to tackle domestic abuse in an area where it has perhaps been minimised and overlooked in the past, which is not acceptable. I therefore ask the Committee to consider the amendment.

Jess Phillips: I will speak to new clause 45, which has been grouped with the amendment. I support everything the hon. Lady has just said. I will not repeat much of what she has said about the number of victims who find they cannot actually access any of the facilities that are said to be available in the family courts. In one recent case—I will not cite the case here, but I have the details in front of me—the victim was denied special measures,

[Jess Phillips]

even though the perpetrator had been arrested for battery, coercive control and sexual assault by penetration. The victim was also living in a refuge. However, she was denied special measures in the family court.

There is not only an absence of legislative guidance. It is clear, as some of the reports the hon. Lady referred to show, that facilities such as video and audio link are not as readily available as they are in the criminal courts. I absolutely welcome what the Bill attempts to do in formalising in legislation what largely exists in the criminal courts for most criminal court cases. In fact, I think that in every single domestic violence case that I have ever been to court about, special measures have formed a part of proceedings, or at the very least have been on offer. I myself have been offered special measures in cases that I have personally been involved with. Sometimes, victims do not want to use them; they want to sit and face the accused. I cannot remember a case in the criminal courts where special measures were not on offer; sometimes the video links leave a little to be desired, but they were none the less available.

It is great that the Government wish to formalise the special measures in our criminal courts in the Bill, and we support that. We simply wish to see those measures extended to court facilities where family law and civil law matters are discussed.

Stay Safe East, the disability charity that focuses on domestic abuse, has advised us that in the local family courts in its area, only one out of the 12 courtrooms has a video facility. I am sure I am teaching Ministers to suck eggs when I say that someone does not always get to decide which courtroom they go into when they get to court. It is therefore a sort of "luck of the draw" situation at the moment.

Automatic eligibility, which new clause 45 and the amendment would allow for, would place special measures on a statutory footing and ensure that family and civil courts make structural changes to safeguard victims, thereby removing the burden on victims to have to request special measures. We want a situation similar to the criminal courts, where such measures are offered in a very proactive way. In fact, long before someone even knows that they will ever be in court or has been given a court date, they are asked about special measures. The amendments are just about equalising that system across our justice estate, to reduce the variation in judicial approach and provide much-needed predictability for victims.

That is especially important because in lots of the cases we are talking about, victims go through a criminal case and a family case at the same time. It is unusual that they can be in one courtroom on a Tuesday and another on a Wednesday, and have completely different safeguards in place. Their case is exactly the same. The perpetration that they have suffered is exactly the same, yet they are safe in one courthouse and not safe—or do not feel safe—in another. There are, I am afraid to say, some terrible examples of women being attacked by their perpetrators in the toilets of family courts, which were written about in Women's Aid's "Nineteen Child Homicides" report for the Child First campaign. We just seek to equalise the situation.

2.15 pm

The Under-Secretary of State for Justice, the hon. Member for Cheltenham, and I have talked many times about the sorts of things that we feel have been innovative for victims in the courts of law in our country. Sometimes, something small that we do in here changes the tone in a court case, and both he and I agree that the victim's personal statement has certainly done that over the years. For many years, we have been hearing terrible things about the family courts, but I feel that a change of tone could be brought about in those courts. The special measures we seek through our amendments would certainly change the tone, by putting the onus on the family courts to consider the importance of victims of domestic violence and their vulnerabilities.

Fay Jones (Brecon and Radnorshire) (Con): The hon. Lady mentions some improvements that could be made, but does she welcome our election manifesto commitment about integrated domestic abuse courts?

Jess Phillips: Perhaps I am being a bit premature, but I look forward to the progress on that, because the sectors have been crying out for the integration of different court systems for years and years. As we have said about a million times during these debates, the approach of the specialist domestic violence courts have been patchy across the country. In some areas, they have dwindled, but in others they have come to the fore because of the covid-19 crisis. I would very much welcome anything that would standardise the situation in courts for victims of domestic violence, especially in respect of their experience of the courts, whether they be civil, criminal or private.

Liz Saville Roberts (Dwyfor Meirionnydd) (PC): It is exactly on that point that I want to talk about special measures. I hope that it is acceptable to the Chair for me to mention some matters on clause 59 as well, because these things will interact. I will not then rise to speak on clause 59. Much of this is to do with the lack of communication between jurisdictions and the experience of victims and survivors as a result. I welcome the opportunity to speak now because, in December 2017, I brought forward a private Member's Bill on courts and the abuse of process. From the point of view of the victim's experience, special measures and cross-examination—those two things—are inter-merged.

Back in 2017, my office carried out research into 122 victims of stalking and domestic abuse, which gave us a snapshot of those individuals' experiences when they went to court. I understand that this was a self-selecting study, but 55% of those people had had court proceedings taken against them by their abusers. It should be noted that all those victims had restraining orders in place. None the less, that was their experience—court proceedings were brought against them. Two thirds of them then had to appear in court, and a third were personally cross-examined by their perpetrator. In only a quarter of those cases did the police view the court proceeding as a breach of the restraining orders on the perpetrators.

At that time, I was trying to limit the capacity of perpetrators, primarily of domestic abuse, stalking and harassment, to use—indeed, to misuse or abuse—the

family and civil courts in a deliberate, calculated effort to continue to distress their victims and manipulate their behaviour to exercise deliberate control over their actions.

At the time, what needed to be sought was the means for the court to have the power to dismiss any meritless applications where it was apparent that the purpose of the application by the perpetrator was specifically to distress or harass the victim, in the guise of an appeal to justice in matters relating to civil or family court jurisdiction. Many of us will have come across instances of repeat applications, particularly in the civil court, but also, from the point of view of the perpetrator, to again be able to hold the victim under their control and, within that cross-examination, gain the satisfaction of that aspect of the relationship again.

I will mention what was proposed at the time, because it was felt to be suitable then. The proposal was that the applicant would be obliged to declare any unspent convictions or restrictions in relation to the respondent, or similar convictions against other victims; the respondent would be given the power to inform the court of any relevant convictions or restraining orders in respect of the applicant; and the court then would have a duty to investigate the claims. In such circumstances, if proceedings were permitted to continue, the respondent would be able to request special measures, such as the provision of screens or video links, and of course there would be a possibility of other special measures in relation to cross-examination.

I will just touch on a couple of examples. I do not want to go on forever with case studies, but they do give some colour as to why this point is relevant. One instance that became apparent to us from our research was of a man who had been a victim of stalking for over six years. His stalker had repeatedly brought baseless, vexatious claims against him through the civil court, and he had no option but to represent himself because of lack of funds. Despite the fact that the stalker was subject to a restraining order, he was allowed to continue to cross-examine the victim in the civil court, and neither the police nor the Crown Prosecution Service recognised those vexatious claims to be in breach of the restraining order. It was difficult to come to any conclusion other than that the court procedures themselves were at that time colluding with the applicant and his continued abuse of the respondent.

I will give a second example, just to give a sense of the costs. It involves another respondent to our research. This woman's ex-partner had also had a restraining order, having been charged also with stalking her. He had taken the woman to court 15 times, in both civil and family courts. That had cost her about £25,000 because, like many people, she was not eligible for legal aid in those circumstances.

I will not rise to speak to clause 59, because I think this discussion does lead us on and there are a few specific points that I would like to make about clause 59, which is where the concerns are.

The Chair: Order. Despite that, I urge the right hon. Lady to stay well within the scope of the clause that we are currently debating.

Liz Saville Roberts: Thank you, Ms Buck. I will wait until the appropriate time.

Julie Marson (Hertford and Stortford) (Con): I want to touch on my experience in the courts, particularly the specialist domestic violence courts. However harrowing it has been, it has been a genuine pleasure to be able to sit in those courts.

There are some common themes that I have seen in court. It is usually women and children affected. There is always a power and control dynamic; it is never just about the violence, although there usually has been violence. And there is always fear on the part of the victim, even with the special measures that I have seen—the screens and so on. I could still see the victims, and I saw them crying, shaking and trembling. This is so important. What such a measure does is take away some of the power that the perpetrator has to control the victim in the courtroom environment, because they are still trying to control, even right at that moment, with looks, sounds, movements—with everything they can muster at the time. Therefore, I profoundly support special measures across the piece, because I think that they are really valuable in limiting that control right through the justice system.

Peter Kyle (Hove) (Lab): In the hon. Lady's experience of dealing with these cases and being able to see the impact on victims, was she aware of the challenges that victims have before they get into the courtroom, because often in family courts it is very difficult to separate victims from perpetrators? Was she aware, in her job at the time, that that was also an issue that needed to be dealt with?

Julie Marson: The hon. Gentleman makes a really important point. Long before I ever see a victim in court, there has been a huge process to get there and to provide the right support. Independent domestic violence advisers and different support mechanisms are in place; there are supporting people who come in and sit with the victim in court, but it is a hugely traumatic experience and support is needed throughout that process.

I would add a point about a common theme among perpetrators. When, in normal criminal cases, shoplifters or burglars or other violent offenders are convicted and sent to prison, there is a shrug of the shoulders—it is a part of their life; a general hazard of the criminality that they are involved in. When I have had—I will use the phrase—the pleasure to convict a perpetrator and send them to prison, it is noticeable that all the power has all of a sudden been stripped away. Their indignance and fury is palpable; you can sense it and see it. That is what makes it a different crime and a different experience, and that is why special measures are important. I speak to that experience.

The Parliamentary Under-Secretary of State for the Home Department (Victoria Atkins): Will my hon. Friend indulge me for a moment? I take the point that the hon. Member for Hove made about the geography and layout of court buildings. Some we cannot change because they are very old. Has my hon. Friend seen the measures that clever judges can introduce to control when defendants are permitted to turn up according to the conditions of bail? For example, the defendant is not permitted to arrive at court until 20 minutes before the court case starts, so that the victim has time to get into the building and into the witness room, or wherever she will be

[Victoria Atkins]

based, and there is no risk of crossover. Does my hon. Friend agree that little tweaks such as that can make a difference?

Julie Marson: Absolutely; I completely agree. We cannot legislate for everything you can do in a court—every courtroom is set out differently. I have seen a lady with two teenage daughters, with the husband, and some really clever dynamics were needed to keep everyone separate, including in the toilets. In my experience, such measures have been very positive. There have been specialist domestic violence courts. Everyone is keenly aware of what is needed and is trying to think ahead for the kinds of measures that can make justice effective and make sure that justice is done. Such measures are all part of that.

The Parliamentary Under-Secretary of State for Justice (Alex Chalk): I am delighted to see you in the Chair once again, Ms Buck. I thank my hon. Friend the Member for Hertford and Stortford for her excellent contribution. It speaks to the strength of the Committee that its members have real-world experience and can apply it to the important matters that we are here to discuss.

Before turning to the amendment and new clause, it is worth taking stock of where we are in terms of the court process and the framework in which the amendment and new clause sit. Over the last 10 years or so—probably a bit longer—the environment for victims and witnesses has been completely transformed. It was not so long ago that a complainant in a case of serious violence or a serious sexual allegation had to turn up at court and eyeball the defendant. It required an extraordinary effort of will, and a lot of people just thought, "This isn't worth the candle."

Legislation was introduced that provided the opportunity for screens and giving evidence via live link. At the time, that was considered utterly revolutionary. People were clutching their pearls, saying, "That's it; justice is dead in our country; there is no opportunity for people to get a fair trial" and so on. The culture has changed. Now, at plea and trial preparation hearings such orders are routinely made and, lo and behold, juries—indeed, benches of magistrates as well—seem to find it perfectly straightforward to make a judgment in the interests of justice on the facts in front of them.

Setting that context helps to bring us up to the situation at the moment. Let us imagine some facts for a moment. The allegation is one of sexual assault on the London Underground. At that early hearing, before the Crown court, long before the trial has even been scheduled, the judge will ask the prosecutor, "Are there any applications for a special measures direction?" The prosecutor will stand up and say, "Yes, there is a complainant in this case and it is an allegation of a sexual nature, so I will be inviting the court to make a special measures direction in the normal way." That is precisely what will happen, because it will be automatic.

I pause to note one further point. If the complainant says, "Forget this. I don't want a screen, and I don't want to give evidence on a live link; I want to be there in the well of the court, because that is how I feel I will get justice", that will be accommodated as well.

2.30 pm

When we look at the provisions, it is important to understand how far we have come as a country. The hon. Lady was absolutely right when she talked about innovation. There has been a vast amount in recent years and I respectfully agree with her when she says that, even in that context, probably the single biggest innovation in allowing individuals to feel that they are getting justice is the victim personal statement. It is an opportunity to say at the end, "You, Judge, may have your own views about the impact on the victim. I will tell you how it has affected me and my family." It is a spine-tingling moment in court when we get to the end of a case and it comes to sentencing. The prosecutor stands up to read it and it really brings home to us the whole purpose of the criminal justice system.

Clause 58 talks about special measures directions in cases involving domestic violence. As I have indicated, at the moment there are certain categories of offences where, at the lead hearing, the court imposes special measures directions, particularly in cases of serious sexual violence, or indeed ordinary violence. The clause extends the eligibility for assistance given to intimidated witnesses in criminal proceedings to complainants of any offence where it is alleged that the behaviour of the accused amounted to domestic abuse. In simple terms, the prosecutor will stand up and say, "My Lord, this is an allegation of violence in a domestic context. I will seek a special measures direction in the normal way. Thank you very much." That will be imposed and it will be transformational. The officer in the case will pick up the phone to the complainant and say, "Don't worry; there will be screens in this case." She—for it is usually a she—can feel comforted from that.

Clause 58 also provides that a special measures direction provided for the witness's evidence to be given in private can be given in cases where the proceedings relate to a domestic abuse-related offence. Of course, it is for the judge to decide whether he or she wants to exercise that discretion. There is a countervailing principle of openness of justice, but where the facts of the case militate in favour of proceedings being taken in private, that power is now there. I would not want to lose that point because it is a very important one.

We might think, "Why not extend all this?" Let me say a little bit about that. As the hon. Member for Edinburgh West has explained, amendment 54 seeks to enshrine in primary legislation the principle that victims of domestic abuse should be eligible for special measures in the family court. I mean no discourtesy, but I note that the way the amendment is drafted has some difficulties, although I understand precisely what she is trying to achieve. It states:

> "In cases where it is alleged that domestic abuse is involved, Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in case of vulnerable and intimidated witnesses) applies to proceedings in the family court as it applies to criminal proceedings, but with any necessary modifications."

But it is not clear what those modifications would be. My first concern is that there is a vagueness in the amendment, and it relates only to family proceedings and not to civil proceedings.

New clause 45, tabled by the hon. Member for Birmingham, Yardley, goes a step further as it seeks to make provision for special measures in both the family

and civil courts. Both hon. Members are right to raise the issue of special measures for domestic abuse victims in those two different jurisdictions. As I have indicated before, but to put it on the record, broadly speaking, special measures relating to putting in place a range of provisions to help vulnerable witnesses give their best evidence without fear or distress about testifying are good things. Although special measures are already generally available in jurisdictions, the Government recognise that how they are applied can be inconsistent, which can in turn have a negative impact on the experience of vulnerable witnesses in each jurisdiction. It is important to note that we are not moving from night into day, in so far as the measures have been available; it is a question of what this place can do to prompt that—in other words, to indicate or give a steer to the courts that we expect and hope them to be imposed more readily than perhaps was the case. This is an important issue that we need to get right.

In the family courts, there are currently no provisions for special measures in primary legislation. Instead, detailed provision is made in part 3A of the family procedure rules 2010, supported by practice direction 3AA. Part 3A puts the court under a duty in all cases to consider whether a party's participation in proceedings, or the quality of evidence given by a party or witness, is likely to be diminished due to reasons of vulnerability. When considering vulnerability, the court must consider a wide range of matters, including concerns relating to abuse. If the court decides that special measures are necessary, it can make provision for a range of options to be put in place to assist the party or witness, such as protective screens or participation via video link.

The work of the Ministry of Justice's expert panel on harm in the family courts, which I know a lot of hon. Members are aware of, has been magisterial. I pay tribute to those people who have given a huge amount of time and expertise to getting under the bonnet of something that is sensitive but is in clear need of careful examination. They have done magnificent work, and we are getting closer to seeing the fruits of those labours. The panel has examined the provision of special measures, as well as the supporting procedural rules, as part of its work and final report. That piece of work will be published in the coming weeks.

Jess Phillips: The Minister says that the report will be published in the coming weeks. Does he expect that we will see it prior to Report stage of the Bill, or potentially prior to Committee stage in the Lords, as he has leaned on for one particular review? I ask only because I am seeking to understand what will be given to me as I consider whether to push new clause 45 to a Division.

Alex Chalk: I invite the hon. Lady to listen to the end of my remarks. If I can put it in these terms, the words I will use at the end are carefully phrased. I invite her to listen to those and then decide. A huge amount of work has gone into this panel, and getting to a place where we are ready to publish is the stuff of enormous effort. We are moving as quickly as we can, and it will be published as quickly as possible.

On the civil courts, there are no specific provisions in the civil procedure rules that deal with vulnerable parties or witnesses. However, judges have an inherent power, where the court is alerted to vulnerability, to make a number of directions or take steps to facilitate the progression or defending of a claim or the giving of evidence by a vulnerable party.

Liz Saville Roberts: To summarise considerably, I am sure that the Minister is aware that the Civil Justice Council returned earlier this year with the civil procedure rule committee. One of its recommendations was a new practice direction to address vulnerability. I wonder whether he could consider that.

Alex Chalk: The hon. Lady must have a copy of my speech, because I will come to that point in just a moment.

The directions that a civil court can make include, but are not limited to, giving evidence via video link, by deposition, by the use of other technology or through an intermediary or interpreter. On the hon. Lady's point, following the April 2018 publication of the interim report and recommendations of the independent inquiry into child sexual abuse, the Ministry of Justice commissioned the Civil Justice Council—an advisory body responsible for overseeing and co-ordinating modernisation of the civil justice system—to consider the issues raised by these recommendations, and to compile a report that was not to be restricted only to victims and survivors of child sexual abuse.

The CJC published its report, "Vulnerable witnesses and parties within civil proceedings: current position and recommendations for change", in February 2020. It made a number of recommendations, as the hon. Lady rightly points out. On special measures, the CJC report concluded that, in the civil jurisdiction, the issue is one of awareness and training, rather than lack of legal powers or framework. This goes back to my point on the role of this place in promoting awareness while recognising that discretion should be available to the court. That was the CJC's conclusion. Its suggestion was that special measures were best left to the flexibility of court rules. The Government are considering how the recommendations in the independent report should be taken forward.

What is evident from the evidence received by the family panel and the Civil Justice Council is that the current position is unsatisfactory. The question is how best to improve the situation and ensure that vulnerable witnesses in the family and civil courts receive assistance to give their best evidence, in a way analogous to what the Bill already provides for in the criminal courts. We have the report from the Civil Justice Council to guide us but do not yet have the report of the family panel. However, I hope and expect that we will have it shortly, and it is right that we should consider the panel's findings before legislating.

I am sympathetic to the intention behind these proposals. If the hon. Member for Edinburgh West would agree to withdraw her amendment I can give her and the shadow Minister an assurance that, between now and Report, we will carefully consider both proposals, and how best to proceed. If they are not satisfied with the conclusions the Government reach, they are of course perfectly entitled to bring amendments back on Report.

Christine Jardine: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 58 ordered to stand part of the Bill.

Clause 59

PROHIBITION OF CROSS-EXAMINATION IN PERSON IN FAMILY PROCEEDINGS

Amendment made: 37, in clause 59, page 39, line 32, at end insert—

"(aa) section 80 of the Sentencing Code;" *—(Alex Chalk.)*

See the explanatory statement for amendment 31.

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

Alex Chalk: Let me say a little about clause 59. In fact, the right hon. Member for Dwyfor Meirionnydd was starting to talk about it, so I will set out some context. The clause contains provisions to prevent unrepresented perpetrators of abuse from cross-examining their victims in person in family proceedings. It also makes provision to give family courts the power to appoint a qualified legal representative to undertake the cross-examination instead, where necessary.

The Joint Committee on the Draft Domestic Abuse Bill, which undertook pre-legislative scrutiny of the draft Bill, recommended that the automatic prohibition of cross-examination be extended so that it would apply when the victim could provide evidence of abuse, as in the legal aid regime. We have accepted the recommendation in full, and the clause now gives full effect to it.

Some of the most vulnerable members of society come before the family courts, and we are determined to offer them every protection and to ensure that every vulnerable victim or witness coming to the family courts has confidence that the court will not be used to perpetrate further abuse against them. Currently, family judges have a range of powers to make sure that difficult courtroom situations are handled sensitively for vulnerable witnesses. In proceedings where both parties are litigants in person and concerns of domestic abuse have been raised, that may include carrying out cross-examination by way of the judge or the justices' legal advisers putting questions to the parties themselves. Alternatively, the judge can decide that an alternative form of evidence, such as pre-recorded cross-examination from criminal proceedings, is sufficient.

However, there are cases in which those alternative forms of evidence or cross-examination will not be sufficient to test the evidence in the case thoroughly. We must recognise that for the judge to step into the arena to ask those questions is often—how can I put it politely?—suboptimal. In those instances, the court currently has no power to appoint an advocate to carry out the cross-examination in place of the parties themselves. That can lead to situations in which the court is powerless to prevent a victim from being cross-examined in person by their abuser.

I am sure we would all feel uncomfortable about a situation in which evidence was not challenged. The whole point of an adversarial process is to tease out inconsistencies and omissions in the evidence. If that is not happening, the proceedings are not fair, so it is important that there should be scope within the trial process for frailties in the evidence to be ruthlessly exposed.

We recognise that the issue has been the subject of close attention in the House and among experts in the field. Victims have told us that being subject to cross-examination in person in this way can be retraumatising, and judges have told us that the situation is an impossible one for them to manage. I entirely sympathise. We are determined that the court should never be used as a forum to perpetuate further abuse, and that it should have sufficient powers in all cases to prevent abuse from being perpetrated through court processes.

The purpose of the clause is therefore to introduce a prohibition on victims being cross-examined in person in specified circumstances. In addition, the clause gives the court the power to appoint an advocate, paid for from central funds, for the purpose of cross-examination where there are no satisfactory means to cross-examine the witness or to obtain the evidence, where the party does not appoint a legal representative or themselves to do so, and where it is necessary in the interests of justice to do so.

2.45 pm

The clause has the effect of introducing an automatic ban on cross-examination in person in every case where one party has been convicted of, given a caution for or charged with certain offences against the witness. Those offences will be specified in regulations but are intended to include offences related to domestic abuse, child abuse and sexual abuse. The provisions will also introduce an automatic ban on cross-examination in person where one party has an on-notice protective injunction in force against the witness. It really is a far-reaching clause, and it significantly increases the protection for individuals who might otherwise be retraumatised by the process.

Jess Phillips: I welcome what the Minister is saying, but on the specific instances he is outlining of who exactly would be able to assess this, does he foresee an element of the judge's discretion also allowing them to go to central funds where they believe enough that cross-examination would cause distress, regardless of whether there may previously have been a conviction or an order in place? As we all know, there is a disparity between conviction and order rates on the one hand, and domestic violence rates on the other.

Alex Chalk: Courts have a common law discretion to manage their own proceedings, but it will be important for us to assist the them as much as possible by setting out the categories that should trigger the exemption. Although courts can act of their own motion, it is none the less important to prescribe to an extent that the provision applies in circumstances where somebody has been convicted, charged or cautioned. I will develop that point in the following passage.

In the light of the recommendation from the Joint Committee on the Draft Domestic Abuse Bill, the clause now makes provision that the automatic ban will also apply in other cases where a witness has adduced specified evidence of domestic abuse. The evidence will be specified in regulations and, as recommended by the Joint Committee, we intend for this evidence to broadly replicate that which is used to access civil legal aid. That is probably the point that the hon. Lady was driving at.

The prohibitions also apply reciprocally, to prevent a victim from having to cross-examine their abuser in person. Where the automatic ban does not apply, the clause also gives the court a discretion to prohibit

cross-examination in person where it would be likely to diminish the quality of the witness's evidence or cause significant distress to the witness or the party. That is the point about a court's discretion: the judge has the individuals in front of them, can hear from them and can make a decision based on that.

In any case where cross-examination in person is prohibited, either under the automatic prohibition or at the discretion of the court, the judge must consider whether there is a satisfactory alternative means by which the witness can be cross-examined or the evidence can be obtained. That would include means that already fall under the judge's general case management powers, such as putting the questions to the witness themselves or via a legal adviser, or by accepting pre-recorded cross-examination. I suppose one might imagine cases where the things that need to be cross-examined on are so narrow in scope that it would not be worth the aggravation of instructing independent counsel if the judge can do it and do justice in that way. It is important that the court can act of its own motion and flexibly, and the clause retains that flexibility.

If there are no satisfactory alternative means, the court must invite the prohibited party to appoint a legal representative to carry out cross-examination on their behalf. If they choose not to, or are unable to, the clause gives the court the power to appoint a legal representative—an advocate—for the sole purpose of conducting the cross-examination in the interests of the prohibited party. The court must appoint an advocate where it considers this to be necessary in the interests of justice.

There could be circumstances where it is not possible to protect the prohibited party's rights to access to justice and/or a family life without the appointment of such an advocate. This might be in circumstances, for example, where the evidence that needs to be tested by cross-examination is complicated, because it is complex medical or other expert evidence, or because it is complex or confused factual evidence, say from a vulnerable witness. The clause also confers power on the Secretary of State to issue statutory guidance in connection with the role of that advocate.

The clause also confers power on the Secretary of State to make regulations about the fees and costs of a court-appointed advocate to be met from central funds. We understand the particular skill and care that is needed to carry out cross-examination of a vulnerable witness effectively. We will be designing a full fee scheme to support these provisions, in consultation with the sector and interested parties, prior to the implementation of the Bill.

This clause seeks to ensure that, in future, no victim of domestic abuse has to endure the trauma of being questioned in person by their abuser as part of ongoing family proceedings. It makes a big difference, and I commend it to the Committee.

Peter Kyle: It is rare but pleasing when one agrees so fully with the person one shadows, and I am grateful to him. I do not want to shock the Minister—I do not want him to be clutching his pearls as I say such words—but it is certainly the situation we find ourselves in on this clause. We are not opposing or seeking to amend the clause; we agree fully with it and what it seeks to achieve.

However, I want to spend a bit of time explaining how we got to where we are, because it is important. It is important that we make sure the record reflects the situation that this clause seeks to rectify and the impact that the cross-examination by perpetrators of victims has had on people. In so doing, I speak on behalf of a great number of advocates, both in Parliament and outside, over a great period of time. I can speak for myself on this issue, but I am very aware of the fact that I am also speaking on behalf of a lot of other people.

I had personal experience of this issue very soon after getting elected in 2015. Soon after the election, I was sitting on the floor of my campaign office among the detritus of a very vigorous campaign, sorting through things and trying to figure things out, when a very fragile, very vulnerable and very damaged woman suddenly appeared in the doorway. She came in to see me, and said, "Are you the new MP?" I said yes, and she said, "I saw your leaflets. You look like a friendly person. I am now going to flee my relationship, and I will only speak to you about it." We sat in the corner of the office, and this woman was bruised and bleeding. She had literally escaped from the relationship, and I, as an MP of a few days, was thinking on the inside, "Oh my God, what do I do in this situation? How do I help this extraordinarily vulnerable person?" I just did the best I possibly could, and that involved brokering a relationship between her and the police, about which she was terrified. She was scared of the authorities because the authorities had let her down so many times, repeatedly. I supported that woman, and she went into a protective programme. She now has a new identity and a new life, and although she will never ever be able to escape the horrors of what she went through, she certainly has an opportunity to discover new, more fruitful aspects of life, which she was prevented from doing before.

One of the aspects I experienced very soon after the process of supporting her began was the experience of the family court. I could not believe what I heard when she came to see me after some hearings in the family court, where she was made to share the space of the person she had fled. Having seen her on the day she fled her relationship, it was horrendous to hear that she was forced into the same waiting room as this person, had to be in the same space when their relationship was discussed and, crucially, was cross-examined by him.

At the same time, another constituent came to see me in my surgery. She had just been cross-examined by her abusive partner for the third time. She had previously been hospitalised; the perpetrator had broken more than a dozen or her bones and repeatedly raped her. On the third appearance in the family court, she was shaking so violently that she needed assistance to get to the taxi afterwards. On the journey home, the taxi driver had to stop and help her out of the taxi so that she could vomit on the pavement.

That was happening to people who I was sitting with and who I represented in Parliament. I could not understand that the very institutions that existed to protect people like them were facilitating the abuse—in front of judges, in a room with police officers, abuse was happening, and nobody was offering support. To my shame, I could not quite believe that this was possible in 21st-century Britain. When I came back to Parliament, I sought out my right hon. and learned Friend the Member for Holborn and St Pancras (Keir Starmer) and asked him

[Peter Kyle]

about it. I said, "I am hearing this thing, but I can't believe it is possible." He, as the former Director of Public Prosecutions, said, "It is happening, and there is a big campaign out there to try and change it."

I could not believe that it was still happening, so I went to speak to Ministers. Repeatedly, Minister after Minister told me that a cultural change was needed in the criminal justice system, not a legislative change. I could not accept that. Having gone to speak to judges to understand why change was not happening, and having repeatedly spoken to Ministers, I found it incredibly hard to believe that the Government were not seeing or understanding the abuse. Of course, they were seeing it, but they were refusing to change. There are many lessons here, and I hope Back Benchers realise that persistence is one of them.

On 15 September 2016, I secured a Backbench debate that was led by Angela Smith, the then Member for Penistone and Stocksbridge. We had gone with a cross-party group to get a Backbench debate. There were several Tories in the group, and we worked as a formidable team. My hon. Friend the Member for Birmingham, Yardley was not part of the group that went to the Backbench Business Committee, because she sat on the Committee and was supposed to be impartial, but it was clear from her facial expressions where she stood on the issue.

During the debate itself, I was able to put on record the most shocking example of this abuse that I have ever come across. In the eight or nine months leading up to the debate, I met dozens of women who had gone through such abuse. The most shocking case was that of Jane Clough—some people in this room will be aware of her case. I am not the sort of person who normally quotes himself, but in going through all the different debates that have taken place in Parliament in the last five years on this issue, I read some of the examples I put on record, and I want to quote directly from one debate. My reason for doing so is that I want Members to realise, and I want the record to reflect, that this example has been on the House of Commons record for almost four years.

3 pm

I quote from *Hansard* Vol. 614, c. 1099—I hope, in these difficult times for our friends at *Hansard,* that saves them a small amount of work—which reads:

"If there is one example that sums up the sheer horror of abuse and its continuation in the family court, it is that of Jane Clough. Jane was in an abusive and violent relationship until she finally took action and went to the police. Her ex-partner, Jonathan Vass, appeared in court charged with nine counts of rape, one of sexual assault and three counts of common assault. Some of this had taken place while Jane was heavily pregnant with his child. Inexplicably, Judge Simon Newell decided that Vass was not a threat and freed him on bail.

Jane lived in so much fear that she moved in with her parents for comfort and protection. Vass eventually found out where Jane was working and, in July 2010, he attacked her as she headed home from work. He stabbed her 19 times and then slashed her throat—wounds from which she died. The next day, he was arrested approaching Jane's parents' home. He was on his way to murder either his baby child or Jane's parents, or both…Once in prison, Vass began demanding parental rights over his child. This was the child whose mother he had beaten and murdered, and the child he would, in all likelihood, have murdered if only he had had the opportunity. None of us can imagine the pain this caused Jane's family, but it gets worse still.

Jane's sister began adoption proceedings in order to break the link with Vass. From that moment onwards, the family experienced a legal system that was stacked in his favour, rather than the baby he had tried to kill. Without access to financial support or legal aid, the family had to find separate representation for the baby and the rest of the family. Had a legal firm not donated pro bono representation, they would have had to sell their house to cover the costs.

A five-day hearing was scheduled in the family court, and the family were informed that Vass had exercised his right to self-representation. The man who had brutally murdered their sister and daughter would be cross-examining them. Jane's sister told me that she simply cannot find the words to do justice to the brutalising effect this had on her as the court date approached. On the day of the hearing, they were informed that he would be appearing by video link, but they were stunned to discover that this was because of concerns for his safety and had nothing at all to do with the wellbeing of the family. As Jane's sister told me, 'It was so shocking. It was all about him—what was best for him, how best to protect his rights. Nothing was balanced against our rights.'

During the cross-examination, Vass asked personal questions of the family members. He asked Jane's sister, in reference to the baby, 'What will you tell her about me?'. He asked her husband: "What makes you think you can be a dad to my daughter?'."—[*Official Report*, 15 September 2016; Vol. 614, c. 1099-1100.]

In responding to that Backbench debate, the Minister, Phillip Lee, showed considerable empathy with the suffering and understanding of the problem, but he refused to commit to any change at all—back then, Phillip Lee was a dedicated Tory. We continued campaigning; we would not let this go. I even got to the point of arranging for a journalist from *The Guardian* to meet one of the survivors I had sat with, which resulted in a plethora of stories appearing in the run up to Christmas 2016. Then *The Times* picked it up and arranged meetings. When journalists called me about this case, they simply did not believe what we were telling them.

Jess Phillips: Is one reason why Lobby journalists and other journalists did not believe it potentially because of the deep secrecy about what occurs in family courts? In the case of the Cloughs, while they were going through the court, they would have been forbidden from speaking about it.

Peter Kyle: I am grateful to my hon. Friend, who makes an important point. She is right about the secrecy of family courts. In a subsequent urgent question that I was granted on cross-examination, I asked for a full review of practices in family courts with that very much in mind. Since then, some journalists have been allowed into family courts, but it is heavily regulated to the point where it still stymies the process, work and operation of the family court. It might interest Members to learn that in that quote from *Hansard*, I used parliamentary privilege. I broke the regulations of the family court to even describe the process that occurred in that exchange in the family court with the Clough family. That is how heavily restricted the processes of family courts are at times, and that is what has led to the lack of reform in comparison with other parts of the criminal justice system. Everything that we are discussing in this clause is already the case in criminal courts.

If the press and the media had been able to scrutinise, and if we had known what was happening in some of those cases, it would have been dealt with some time ago.

That is another important point, because *The Times* splashed the story twice on its front page over Christmas 2016. On 5 January 2017, it again placed the story on the front page, but at that point with an off-the-record briefing from a source in the Ministry of Justice who said that they were going to review and take action on it.

What frustrated me at that point was the equal opposite to what elated me. I was absolutely punching the air that there was going to be movement. What frustrated me, as a parliamentarian, was that we had given the Government half a dozen opportunities in the previous six months on the record in the Commons using the right procedures to get the change that we needed, but it took getting the media involved to deliver it.

We all know that, no matter who the Speaker is, every Speaker will go through the roof when they see an off-the-record briefing making announcements to the media. I immediately asked Speaker Bercow for an urgent question, which I was granted on 7 January to discuss cross-examination in family courts. The Minister who responded to it on 9 January was the right hon. and learned Member for North East Hertfordshire (Sir Oliver Heald), who was characteristically decent and wholehearted in his response and who engaged with the issue head on. He said:

"Is it necessary to change the law? The answer is yes it is. Primary legislation would be necessary to ban cross-examination…work is being done at a great pace to ensure that all these matters are dealt with in a comprehensive and effective way—the urgency is there…My feeling is that what is required is pretty straightforward: a ban, and then the necessary ancillary measures to allow cross-examination without the perpetrator doing it."—[*Official Report*, 9 January 2017; Vol. 619, c. 27.]

Hon. Members can imagine that that was a big moment.

As an aside, I refer to the exchange that just took place between the Minister and my hon. Friend the Member for Birmingham, Yardley. When she intervened on him and asked, "When will it be done?", he replied saying, "As soon as possible." There was a guarantee to sort out cross-examination almost four years ago—the right hon. and learned Member for North East Hertfordshire said on the record, "the urgency is there"—so when we hear such things from Ministers, we sometimes have that experience, which is why we often seek to probe and get things on the record about timings.

We had a huge opportunity for change. We had the commitment of the Government. At one point the then Minister, the right hon. and learned Member for North East Hertfordshire, giddily galloped across the Chamber to put the amendment that he sought to move to the Prison and Courts Bill in my hand and said, "There it is. We're going to do it." Then, of course, we fell into the 2017 general election. Repeated attempts to get it fixed in the subsequent period also fell to the challenges of the time. Then, of course, we had the Bill that fell before the 2019 general election.

After the UQ of January 2017, I received over 1,000 messages from around the world—mostly women, but some men—who had experienced this in their own lives and felt an incredible need to share their experiences. I had underestimated the degree to which this is a community of people who have suffered, survived and are connected in various ways to share their stories. I had to take on a team of volunteers just to cope with their specific correspondence. Every single person who contacted me had such stories of pain and suffering, as well as persistence and fortitude to a degree that is almost unimaginable for someone who has not experienced it, that I believed every single one of them deserved a personal response.

What united every single message was gratitude that change was coming and a sense of relief that other people would not go through what they went through. That is why the delay of four years has been so difficult for very many people to stomach. Although the numbers have declined because courts have become more aware of the challenge, even one victim and survivor of domestic abuse experiencing a fraction of what we have just heard about would be one too many. So when my hon. Friend the Member for Birmingham, Yardley, members of our Front-Bench team and I read in clause 59:

"In family proceedings, no party to the proceedings who has been convicted of or given a caution for, or is charged with, a specified offence may cross-examine in person a witness who is the victim, or alleged victim, of that offence."—

believe, me, I want to jump up and down screaming, "Hallelujah!" This is a very important moment. I wish it had come sooner, but it takes away none of the excitement, elation and gratitude that it is actually coming now. This is a good day and a good moment for very many people.

Some representative organisations and campaigning groups have been in touch with a request to amend the clause. They have concerns that still, within the letter of the law, it would be possible for a perpetrator, or alleged perpetrator, to nominate somebody close to them—a friend or a family member—to do the cross-examination on their behalf who might well act in their interests in terms of carrying on the abuse. I do not believe, from reading the Bill, that that is in the spirit of the proposed law or is something I believe a court would countenance. However, I seek reassurance from the Minister that they are aware of that, and that should it ever happen in court they will not wait six months, a year or four years before fixing it, but do everything in their power, including bringing something to the Floor of the House, to deal with it if that is what it takes.

Liz Saville Roberts: I too very much welcome the drive behind the clause. The hon. Member for Hove expressed so well the sense that victims have been grist to the mill in the past and this measure will re-set the balance to a degree. I very much agree with the spirit of the amendment to the clause, but there are a couple of points I would like to raise to bring to the attention of the Minister potential loopholes that may need attention in future.

3.15 pm

The restriction on cross-examination does not apply if the caution or the conviction is spent. Given that restraining orders can last a year or 18 months, that raises the question of whether the individual could wait a certain period of time, and then bring forward proceedings and avoid what this measure endeavours to achieve. That concept of short-term protections therefore somewhat misunderstands the nature of domestic abuse and fixated behaviours. This relatively short period of time—a year to 18 months—within which the perpetrator might not have received interventions to manage their behaviour means that the threat may still exist. That could also be seen to overlook the nature of the trauma having a long-lasting effect on victims.

One proposal for Ministers to think about is where a conviction or caution has been spent and a perpetrator wishes to cross-examine. Perhaps a risk assessment should be carried out by a domestic abuse specialist and, therefore, the courts could have a specialist domestic abuse court co-ordinator able proactively to identify the potential of a risk and ensuring that the victims are protected as necessary.

The second potential loophole is the apparent lack of penalty or consequences were cross-examinations allowed to take place when the court should have been able to perceive that they ought not to be allowed to go ahead—for example, when a court could or should have known whether there was a conviction, a caution or a charge in place but did not. Again referring back to the work I have done previously, it is often the experience of victims that cross-examination proceeds when, according to regulations or procedures as they stand, it should not have done, but it did. That is the experience of many victims.

Earlier, I raised the fact of relatively poor communication and collaboration between the jurisdictions, which already has a negative impact on family court proceedings. Judgments made in the criminal courts, such as restraining orders, can be overlooked—I will not say are routinely overlooked, but it does happen—or not taken into consideration in the family court.

My aim with those two points is to put them on the record and to wonder whether Ministers will consider them. Are they significant loopholes and, if so, how will they address them?

Alex Chalk: Before turning to the specific point, I listened carefully to what the hon. Member for Hove said, and it was clear that he has taken a close interest in the issue. I thank him for the energy that he has clearly applied to it. As I was listening to him, I heard about Bills that had fallen, elections that had come and UQs that had happened, and I was reminded of Otto von Bismarck, the German Chancellor, who said: "Laws are like sausages; it is best not to watch them being made." That is absolutely right and I felt it about this. Inevitably—not inevitably, but not uncommonly—it can take time to get there, but we are absolutely delighted with where we have arrived at with this important legislation. It is important to note, too, that it takes place in the context of other important legislation that it was possible to get over the line earlier, such as on coercive control or modern slavery. The Bill sits within that wider context in which we take some pride.

I will first address the issue of spent convictions, friends and so on, and that will allow me to go back to a point made by the hon. Member for Birmingham, Yardley, when she in effect said, "What happens in circumstances where it is not necessarily a conviction or a caution, but something else?" If hon. Members turn to page 40 of the Bill, that is the relevant part of clause 59, which deals with how the Matrimonial and Family Proceedings Act 1984 will be amended. The clause having dealt specifically with issues of conviction and caution, proposed new section 31U—"Direction for prohibition of cross-examination in person: other cases"—states:

"In family proceedings, the court may give a direction prohibiting a party to the proceedings from cross-examining…a witness in person if…none of sections 31R to 31T operates to prevent the party from cross-examining the witness"—

that relates to people protected by injunctions, convictions or other matters—and

"it appears to the court that—

(i) the quality condition or the significant distress condition is met, and

(ii) it would not be contrary to the interests of justice to give the direction."

In other words, it would be open to the party to indicate to the court: "Yes, I don't automatically qualify, but I'm going to provide a statement that indicates that it would adversely affect the quality of the evidence I can give were I to be cross-examined by the other party." I hope that that will give the courts confidence that flexibility is deliberately built into the system.

Liz Saville Roberts: To return to my concern about the lack of communication between jurisdictions, on spent convictions we are going quite a long way down the road as to what communication is necessary. Is the Minister confident that there is sufficient communication, or that there will be in the wake of the legislation, to ensure that such situations are safeguarded against?

Alex Chalk: Yes, I am confident, but it goes back to the earlier point that we were making about culture. If, by dint of the legislation, the family judges, when deciding whether to make one of the orders, are alive to the fact that they will need to consider whether someone has a conviction or a caution, that will, in and of itself, encourage and require the co-operation of the police. In other words, the court will have to find out what is on the police national computer in respect of the other party.

I am confident that courts will see their way to ensuring that those lines of communication are in place. Quite apart from anything else, if a judge finds himself, or herself, in a situation where he cannot make the order because he has not been provided with the information he needs, we can be very sure that he is likely to say something about that. That will, I am sure, elicit change in the fullness of time, so the short answer to the hon. Lady's question is yes.

Question put and agreed to.

Clause 59, as amended, accordingly ordered to stand part of the Bill.

Clause 60 ordered to stand part of the Bill.

Clause 61

OFFENCES AGAINST THE PERSON COMMITTED OUTSIDE THE UK: NORTHERN IRELAND

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

Alex Chalk: Clause 61 extends the jurisdiction of the criminal courts in Northern Ireland in the same terms as clause 60 extends the jurisdiction of the criminal courts in England and Wales. We did not go into clause 60 in any detail, but that is what it is about.

Clause 61 gives effect in Northern Ireland to our obligations under article 44 of the Istanbul convention, as it applies to article 35, which covers physical violence, and article 39, which covers forced abortion and forced sterilisation. Like clause 60, it does so by extending extraterritorial jurisdiction to certain offences against the person, including actual or grievous bodily harm

and murder and manslaughter, in circumstances where the courts do not already have such jurisdiction. That will mean that a UK national or a person habitually resident in Northern Ireland who commits one of the offences outside the UK can, exceptionally, stand trial for the offence in Northern Ireland.

Question put and agreed to.

Clause 61 accordingly ordered to stand part of the Bill.

Clause 62

AMENDMENTS RELATING TO OFFENCES COMMITTED OUTSIDE THE UK

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

The Chair: With this it will convenient to discuss schedule 2 stand part.

Alex Chalk: The clause simply reintroduces schedule 2, which contains amendments relating to offences committed outside the UK. As with clauses 60 and 61, the amendments are necessary to ensure compliance with article 44 of the Istanbul convention. Part 1 of schedule 2 contains amendments to provide for extraterritorial jurisdiction over certain offences other than those set out in clause 60 under the law of England and Wales. Part 2 of schedule 2 contains amendments to provide for extraterritorial jurisdiction over certain offences under the law of Scotland. Part 3 of schedule 2 contains amendments to provide for extraterritorial jurisdiction over certain offences not including those set out in clause 61 under the law of Northern Ireland.

Schedule 2 contains amendments to a number of enactments to provide for extraterritorial jurisdiction over certain offences under the law of England and Wales, Scotland and Northern Ireland. Together with clauses 60 and 61 and provisions in the Domestic Abuse and Family Proceedings Bill currently before the Northern Ireland Assembly that give extraterritorial effect to the new domestic abuse offence in Northern Ireland, schedule 2 will ensure that the UK complies with the jurisdiction requirements of article 44 of the Istanbul convention.

Part 1 of the schedule covers England and Wales and gives effect to the UK's obligations under article 44 as it applies to article 33, which covers psychological violence, article 34, which covers stalking, and article 36, which covers sexual violence, including rape. It does so by extending extraterritorial jurisdiction to offences under sections 4 and 4A of the Protection from Harassment Act 1997, sections 1 to 4 of the Sexual Offences Act 2003 where the victim of the offence is aged 18 or over, and section 76 of the Serious Crime Act 2015, which is about coercive control. It will mean that a UK national or a person habitually resident in England and Wales who commits one of these offences outside the UK can, exceptionally, stand trial for the offence in England and Wales. Where the offence involves a course of conduct, the offence may be committed wholly or partly outside the UK.

Part 2 of the schedule covers Scotland and gives effect to the UK's obligations under article 44 as it applies to articles 33 to 36 and article 39. It does so by extending extraterritorial jurisdiction to the common law offence of assault, to offences under sections 1 to 4 of the Sexual Offences (Scotland) Act 2009 where the victim of the offence is aged 18 or over, and to the offence of stalking under section 39 of the Criminal Justice and Licensing (Scotland) Act 2010.

That will mean that a UK national or person habitually resident in Scotland who commits one of these offences outside the UK can, exceptionally, stand trial for the offence in Scotland. Where the offence involves a course of conduct, the offence may be committed wholly or partly outside the UK.

Part 3 of the schedule, as the Committee will be cottoning on to by now, covers Northern Ireland and gives effect to the UK's obligations under article 44 as it applies to article 34 and 36. It does so by extending extraterritorial jurisdiction to offences under article 6 of the Protection from Harassment (Northern Ireland) Order 1997 and part 2 of the Sexual Offences (Northern Ireland) Order 2008, again where the victim of the offence is aged 18 or over. It will mean that a UK national or person habitually resident in Northern Ireland who commits one of these offences outside the UK can, exceptionally, stand trial for the offence in Northern Ireland. Where the offence involves a course of conduct, the offence may be committed wholly or partly outside the UK.

Jess Phillips: I simply want to welcome specifically the terminology of "habitual resident" within the UK. The Minister and I have met a number of different families over the years who have suffered violence, and I am afraid to say that those cases we get to see usually involve murder in a different country. Where the perpetrator of the crime was back here in Britain and was not a British citizen but was habitually resident in this country, the authorities had found that their hands were tied. While the measures seem perfunctory and were a lot of words for the Minister to say, to families they mean a huge amount, so I welcome them.

Question put and agreed to.

Clause 62 accordingly ordered to stand part of the Bill.

Schedule 2 agreed to.

Clause 63

POLYGRAPH CONDITIONS FOR OFFENDERS RELEASED ON LICENCE

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

Alex Chalk: This clause is about polygraph conditions. It is an important clause that relates to conditions for offenders released on licence. It is one of a number of measures in the Bill directed at strengthening the effective management of domestic abuse perpetrators. It allows the Secretary of State for Justice to introduce mandatory polygraph examinations as a licence condition for offenders convicted of a relevant domestic abuse-related offence. The relevant offences include murder, specified violent offences and the offence of controlling or coercive behaviour under the Serious Crime Act 2015. Necessarily, this is a new departure to some extent, but it is kept within tight limits, as members of the Committee would expect.

3.30 pm

Let me say this by way of context. Polygraph examinations are already successfully used in the management of sexual offenders who are supervised by the National Probation Service. The clause extends the use of testing to include high-risk domestic abuse perpetrators who have been released from custody having served a sentence of 12 months or more and are on licence.

Polygraph testing will be used to monitor an offender's compliance with other licence conditions, such as those restricting contact with their victim, requiring the offender to notify their probation officer when they form new relationships, and prohibiting entry into an exclusion zone, for example around their victim's home. It will also be used to monitor dynamic risk factors such as alcohol or substance misuse.

The policy underpinning these provisions does not allow for offenders to be recalled to custody for failing a test. That is important. I think a lot of people would have misgivings if it could have that level of significance. However, the clause enables offenders to be recalled for making disclosures during testing that, when considered with other evidence, suggest that the risk can no longer be managed in the community. In other words—putting it in the vernacular—someone is not going to be banged up for failing a polygraph test. That is very important. However, when considered with other evidence, that can lead to a recall.

The offender can also be recalled to custody if they refuse to take the test or try to trick it in some way, for example by controlling their breathing. Testing can be required as part of the licence conditions imposed on an offender following their release from custody and, in common with other additional licence conditions, can be imposed only where it is deemed necessary and proportionate to the risk posed.

In its report on the draft Bill, the Joint Committee did not object in principle to extending polygraph testing to domestic abuse offenders, but it sought assurance on two issues. First, it sought an absolute assurance that no statements or data derived from a polygraph test could be used in criminal proceedings. The Joint Committee acknowledged:

"This appears to be the effect of the draft Bill".

I can confirm that that is the case.

The provisions in clause 63 must be viewed alongside the existing provisions relating to polygraph testing in the Offender Management Act 2007. Section 30 of that Act expressly and unequivocally provides that any statement made by an offender during a polygraph session, or any physiological reaction made during such a session, may not be used in criminal proceedings in which that person is a defendant. I hope that will give the Committee some comfort; it certainly gave me some.

Let me be clear, however, that that does not preclude information derived from a polygraph examination from being shared with the police, who may decide to use the information to conduct further inquiries. If, as a result of those further inquiries, the police obtain other evidence that suggests an offence has been committed, that may result in charges being brought against the offender.

The Joint Committee also sought an assurance that polygraph testing will not become a substitute for careful risk analysis. Again, I can assure this Committee that the use of polygraph examinations will not replace any other existing risk assessment tools or measures, such as multi-agency public protection arrangements—MAPPA—but it will add an additional source of information that would not otherwise be available.

The evaluation of the pilot of mandatory polygraph testing for sexual offenders concluded that offender managers found polygraph testing helpful. Offenders who were tested made a higher level of significant disclosures than the comparison group who were not tested. As a result, the pilot was rolled out, and offender managers were able to increase levels of supervision where necessary, inform third parties such as the police and other MAPPA agencies or children's services, and increase other controls, such as recalls or formal warnings.

Although the use of polygraph examinations is tried and tested in the context of the management of sex offenders, the Government accept that domestic abuse perpetrators represent a different cohort of offender. That is why we are committed to piloting the provisions in clause 63. I respectfully draw the Committee's attention to the commencement provisions in clause 72, which expressly provides for such piloting.

Let me say a few words in conclusion about that pilot. We intend to run a three-year pilot in the north of England involving some 600 offenders. Half of the cohort will be subject to polygraph testing, while the other half will not be tested and will be the comparison group. The Government will commission an independent body to evaluate the pilot, and only if the results are positive will we roll out testing across England and Wales.

Given the benefits we have seen with the use of polygraph testing in helping us to effectively manage the risk posed by convicted sex offenders, I trust that the Committee will agree that there is merit in piloting the use of the polygraph to establish whether there are similar benefits to be had in managing the ongoing risk posed by serious domestic abuse perpetrators. We owe it to victims to use all effective means available to keep them safe.

Question put and agreed to.

Clause 63 accordingly ordered to stand part of the Bill.

Clause 64

Guidance about the disclosure of information by police forces

Jess Phillips: I beg to move amendment 52, in clause 64, page 47, line 15, at end insert—

"(1A) Before issuing guidance under this section, the Secretary of State must undertake a comprehensive assessment of the contribution of the disclosure of police information to the prevention of domestic abuse, drawing on disclosures made by chief officers of police prior to this section coming into force.

(1B) Disclosures of police information for the purposes of the prevention of domestic abuse may only be made—

(a) where reasonable, necessary, and proportionate,

(b) with regard to the best interests of children likely to be affected by the disclosure, and

(c) after ensuring there is an operational plan to support the recipients of such disclosures."

The Chair: With this it will be convenient to discuss amendment 53, in clause 64, page 47, line 17, at end insert—

"(2B) Each chief officer of police of a police force must annually review—

(a) the compliance of their own force with any guidance issued under this section, and

(b) the overall contribution of the disclosures under that guidance to the prevention of domestic abuse in their force area."

An amendment to demand review from police of how the Domestic Violence Disclosure Scheme policy is working, and to clarify the 'pressing need' test.

Jess Phillips: The domestic violence disclosure scheme, which I will refer to from this moment forward as Clare's law, was introduced in 2014 after Clare Wood was murdered by her ex-boyfriend, George Appleton. For those who are unfamiliar with the case, Clare Wood had made several complaints to the police about George Appleton before her death. Those complaints included criminal damage, harassment, threats to kill and sexual assault. A panic room had been installed in her house following an attempted rape.

Clare was unaware that George Appleton had a history of violence against women and had been jailed for three years in 2002 for harassing another woman, and for six months a year earlier after breaching a restraining order. However, he was still able to enter Clare's home, strangle her and set her on fire. The Independent Police Complaints Commission concluded that Clare had been let down by individual and systematic failures by Greater Manchester police.

Clare's law was designed to set out procedures that could be used by the police in relation to disclosure of information about previous violent, abusive and offending behaviour by a potentially violent individual towards their partner where that might help to protect that partner from further violent and abusive offending. There are two procedures for disclosing information: the right to ask, which is triggered by a member of the public applying to the police for a disclosure, and the right to know, which is triggered by the police making a proactive decision to disclose information to protect a potential victim. Disclosures are made when it is deemed that there is a pressing need for the disclosure of the information to prevent further crime.

While there is no doubt that Clare's law was introduced with entirely good intentions—I am not here to challenge that at all—there is some concern that this well-intentioned piece of legislation is currently not operating as it should be, and concern about some alarming instances where, as it operates currently, it could be causing more harm.

First, Clare's law has had limited use since its creation in 2014. According to data from March 2018, there were 4,655 right to ask applications, resulting in 2,055 disclosures, and 6,313 right to know applications, resulting in 3,594 disclosures, so it can be seen clearly that disclosures are not made in every case. In comparison, in the same time period there were just shy of 1.2 million recorded domestic abuse cases in England and Wales, so we are talking about a very small number of cases that seem to be using the scheme. That in itself is not necessarily evidence that it is not working, but I think it is descriptive of where it may work in some places and not others.

In addition, there appears to be a postcode lottery regarding disclosures. It is assumed that that variation is due to the vague nature of the pressing need test that currently exists in the law. For example, in 2019 Kent had an 8.5% disclosure rate for right to ask disclosures, while Hampshire had a 99.5% rate. That is worrisome, but what is of even greater concern is that the average time taken for each disclosure is 39 days. I imagine all will agree that in cases of domestic abuse, that mitigates quite a lot of the potential prevention and could potentially heighten a victim's risk.

In addition, while there was a review of the initial pilot phase of Clare's law and a review one year on, those reviews were procedural and did not consider the impact of the scheme on domestic abuse or analyse the scheme's value for money. There is therefore no evaluation of whether the disclosures made have any benefit to the person they are made to. In fact, one survey indicated that 45% of early-wave recipients of information went on to be victimised by the partner they warned about. In normal language, that means that 45% of the people who have been given the information following one of the variety of requests under this law went on to be victimised and abused by that person.

One such example is Rosie Darbyshire, who was murdered with a crowbar by her partner Ben Topping. Having made an application for information under Clare's law on 28 January, she was killed just over a week later on 7 February. She was left unrecognisable after sustaining more than 50 injuries.

Other concerns include the impact of coercive and controlling behaviour where women are unable to contact the police or where contact from the police would only serve to make matters worse. At the beginning of a relationship—I think we can all understand this, and it applies not just to women but anyone—women are often not alive to the risk of domestic abuse. Only when it is too late are they advised of their partner's past.

Gemma Willis from Teesside, reporting to the BBC, was only advised of Clare's law after her partner was arrested following smashing her head into a window, slashing her neck with a trowel, hitting her with hammers and threatening to kill her family. Also reporting to the BBC, Dr Sandra Walklate from the University of Liverpool said of the scheme:

"We have no real way of knowing whether it's working or not".

While clause 64 operates to place Clare's law on a statutory footing, the proposed amendments are designed to safeguard against circumstances and the case studies outlined above. The amendments would mean that police should evaluate whether disclosures made under Clare's law are having a positive impact on the safety and empowerment of victims. I am not seeking for police forces just to do a paper-shuffling exercise: "A request has come in. What will we do with this request? Does it meet the tests as set out in the law?" I am rather seeking for police forces to run some manner of risk assessment on the impact of this disclosure being made, not on the perpetrator but on the victim.

The amendments would also require police to undertake an exercise to establish the efficacy of the disclosures that have been made in the past few years, to simply have a look over how well it is working. The pressing need test, which I have already referred to, would be refined and clarified to create uniformity with future

[Jess Phillips]

disclosures. Based on information set out, it cannot be argued that my amendments are anything less than essential for the Government, if they want to ensure that Clare's law is as good as it could be and that the protective effect it was intended to have does not, in some cases, cause harm.

Victoria Atkins: I would like to take a moment to reflect on the extraordinary campaigns, charities and local efforts, through which families, such as the Wood family, often find the strength and resilience somehow to campaign and carry on when they have suffered a devastating loss in their family. We have heard why Clare's law is called Clare's law: her family felt that had she been aware of her murderer's background, she would have been able to stop the relationship earlier.

There are so many efforts in the world of looking after and helping victims of domestic abuse, both at the national and local level, where people have done the most extraordinary things. I want to put that on record, because I am very conscious of it as we work through the Bill and our non-legislative work.

We absolutely acknowledge that there is much more to be done to raise awareness of the scheme, primarily with the public, but also with the police. We want to increase the number of disclosures and ensure that the scheme is operated consistently across all police forces.

3.45 pm

It is always difficult to raise awareness of the "right to ask" part of the scheme, because in the first flushes of romance and love, unless someone has already experienced domestic abuse themselves or seen it happen to others, they are probably not thinking, "I ought to contact the police to check whether he is okay." I remind colleagues of the very powerful speech given by the hon. Member for Canterbury (Rosie Duffield) at Second Reading of the second iteration of the Bill, when, in explaining that journey very cleverly and clearly, she said that it was all to do with flowers and loveliness at the start, before the gradual chipping away began a little further on in the relationship.

We acknowledge that the scheme operates in a really difficult area and that it is very difficult for police forces to keep track of other people's relationships. There is of course a certain sensitivity there—we do not live in a police state—so we have to go down that path carefully, ensuring that we balance rights as we need to. With this clause, the right of someone to know that they have begun a relationship with someone who has a background of abuse will be in statute—that is the aim of putting that guidance in the Bill. In including guidance, we want to ensure that it underpins the scheme on a statutory footing, which will give it greater visibility and standing. By requiring police forces to have regard to the guidance, the Bill will help to bring the performance of all forces in applying the scheme up to the best standard.

I am pleased to say that the Government's proposal to place Clare's law in statute was fully endorsed by the Joint Committee, which recognised that the measure will raise awareness of the scheme among those who might benefit most from it. Although I listened carefully to the hon. Member for Birmingham, Yardley as she spoke to her amendments, I reassure the Committee that we know that the guidance has been in place since 2014—an awful lot has happened in the six years since in all sorts of respects—and that is why we are comprehensively reviewing the guidance in anticipation of it being placed on a statutory footing by the Bill. It will be informed by the experiences of the police and, importantly, of many others, over the last six years.

We know, for example, of the incredibly sad case of Rosie Darbyshire in 2019, about which the hon. Lady spoke. The scheme did not meet the timeliness that we all hope for and would expect, and timeliness is a factor in our review. By way of explanation, initial checks are supposed to be carried out within 24 hours, which is of no reassurance at all to the Darbyshire family. We need to understand why that appears not to have happened on that occasion.

Alongside our review, police forces are—in fairness—looking to improve their handling of the scheme. For example, last October the Metropolitan police launched a facility to make online applications. Previously, a person had to visit a police station and fill out a paper form, but the Metropolitan police has moved on to online forms, which we hope will make the process quicker and easier for users. That portal is beginning to be rolled out in other forces in England and Wales.

We understand the need to review and are reviewing the guidance. I welcome the thoughtful idea of looking at the pressing need test, which is set out in the explanatory notes accompanying the amendments. We have not had that suggestion made to us by the police as part of our work to review it. We can see that there may be complications in terms of the importance of risk assessment and so on, but we undertake to explore that point with the police.

We will also of course share the new guidance fully with sector partners and the domestic abuse commissioner, among others, before it is published. It is anticipated that Clare's law guidance arising out of clause 64 will be published after Royal Assent next year.

Even if we were to identify changes to the pressing need test—at this stage, we are very much still pondering that—we have to be alert to whether it is appropriate to place the test in legislation. Doing so may have unintended legal consequences for the well-established legal obligations on police considering making a disclosure. Statutory guidance has the advantage of flexibility and is more readily updated to reflect developing good practice. The police will be required to have regard to the statutory guidance and may face challenge in the courts if they fail to comply with the guidance without good reason.

I absolutely agree wholeheartedly with the principles that the hon. Lady has raised—namely, that we want to bolster the scheme and make sure that more people are aware of it and that we have consistency of application across forces. We very much intend to achieve that through the guidance set out.

Members have been very concerned about how we are looking after children throughout our discussions on the Bill. I very much welcome the suggestion of a specific focus on ensuring that the best interests of any children are taken into account. I agree that that is crucial to the safe operation of the scheme. We will look at how that principle can be included in the statutory guidance.

On amendment 53, we share the ambition that local forces should be aware of how they are operating Clare's law, including whether that is in accordance with the published statutory guidance and with a full understanding of the impact and outcomes of the scheme on victims. Again, I maintain that that is a matter for the new statutory guidance, but our discussions on that will be taken forward as part of our review. I hope the hon. Lady will be content with those representations.

Jess Phillips: I am indeed content. I look forward to working with the Minister to ensure that the law—it bears somebody's name and is their legacy—truly does what Clare's family wish it to do. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 64 ordered to stand part of the Bill.

Clause 65

GRANT OF SECURE TENANCIES IN CASES OF DOMESTIC ABUSE

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

Victoria Atkins: Part 7 of the Bill is a collection of important measures, although there is perhaps not a common theme running through them other than that. The clause relates to secure tenancies and contributes towards the Government's wider aim to support victims of domestic abuse to leave their abusive circumstances, and to ensure that they and their families have the stability and security they need and deserve.

Clause 65 does two things. First, it will ensure that victims of domestic abuse who have or had a lifetime social tenancy, and who have had to flee their current home to escape abuse, will retain the security of a lifetime tenancy in their new social home where they are granted a new tenancy by a local authority. The provisions apply to all local authorities in England and protect all lifetime social tenants in such circumstances, regardless of whether they hold a secure local authority tenancy or an assured tenancy with a private registered provider of social housing—usually a housing association.

Secondly, the clause will safeguard domestic abuse victims who hold a joint lifetime tenancy and who want to continue living in their home after the perpetrator has moved out or been removed from the property. It does this by providing that, if the local authority grants them a new sole tenancy, it must be a lifetime tenancy. The provisions apply when the tenant is a victim of domestic abuse, and they extend to situations where a member of the household—for example, a child—has suffered domestic abuse. In the year to the end of March 2019, nearly 1,500 local authority lettings were made to social tenants who cited domestic violence as the main reason they left their former social home. Although that is a small proportion of new tenants overall, the provisions would protect more than 1,000 households affected by domestic abuse.

The measures largely mirror current provisions in the Secure Tenancies (Victims of Domestic Abuse) Act 2018. That Act, which delivers on a 2017 manifesto commitment, ensures that when the mandatory fixed-term tenancy provisions in the Housing and Planning Act 2016 are brought into force, the security of tenure of victims of domestic abuse will be protected. After listening carefully to the concerns of social housing residents, the Government announced in August 2018 that we had decided not to implement the mandatory fixed-term tenancy provisions at that time. In order to ensure that victims of domestic abuse are protected, we also announced that we would legislate to put in place similar protections for victims of domestic abuse where, as is the case now, local authorities offer fixed-term tenancies at their discretion; the clause gives effect to that commitment. The clause also amends the definition of "domestic abuse" in the 2018 Act to bring it in line with the definition in this provision.

Question put and agreed to.

Clause 65 accordingly ordered to stand part of the Bill.

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

3.58 pm

Adjourned till Tuesday 16 June at Twenty-five minutes past Nine o'clock.

Written evidence reported to the House

DAB68 Agenda
DAB69 APPG for Ending Homelessness
DAB70 Surviving Economic Abuse