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Public Bill Committee

DOMESTIC ABUSE BILL

Ninth Sitting

Tuesday 16 June 2020

(Morning)

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Saturday 20 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

Tuesday 16 June 2020

(Morning)

[Ms Karen Buck *in the Chair*]

Domestic Abuse Bill

9.25 am

The Chair: I will not go through all the information that I gave at the beginning of last week's sittings, but I will just remind everyone to switch their mobiles to silent mode. Also, can you ensure that your speaking notes are sent to hansardnotes@parliament.uk, for the assistance of the *Hansard* writers? We begin this morning's sitting with clause 66 and Government amendment 40.

Peter Kyle (Hove) (Lab): On a point of order, Ms Buck. I know that it is unusual to do this, but I think it is quite important, so I am very grateful. Last week, the head of policy and advocacy for the Children's Commissioner's Office wrote to me to explain that she had been wrongly quoted during the previous debates. I do not seek at all to reopen any of the debates of the past, but I do think that this is an important message. If I may, I will read out the three relevant paragraphs. The message states:

"Dear Mr Kyle

I am writing to you and the clerks of the Domestic Abuse Bill Committee to correct the account of a comment I made to the Pre-Legislative Scrutiny Committee for the Domestic Abuse Bill.

When I gave evidence to the Committee I commented that the Children's Commissioner does not have to send draft copies of our reports or annual reports to the Secretary of State for Education for review. I was making the argument that I felt the same independence should be given to the new Domestic Abuse Commissioner.

Unfortunately my comment was recorded as saying that the Children's Commissioner *did* have…'to send draft reports to the Secretary of State for Education before publication, and that the Secretary of State had to approve its annual strategic plan', and I did not spot this mistake in the transcript at the time. I am writing to clarify this point although the argument you were making during the debate still stands—that this independence is something to be welcomed.

I don't know if it is possible for the clerks to amend the report of the pre-legislative scrutiny committee to reflect this error but I wanted to alert you both…as soon as I was made aware of this.

Yours sincerely

Emily Frith

Head of Policy and Advocacy

Children's Commissioner's Office".

I just wanted to set the record straight, not to reopen the previous debate.

The Chair: Thank you, Mr Kyle. That has now been placed on the record, and I hope that it will satisfy everyone.

Clause 66

Power of Secretary of State to issue guidance about domestic abuse, etc

The Parliamentary Under-Secretary of State for the Home Department (Victoria Atkins): I beg to move amendment 40, in clause 66, page 49, line 36, after "64" insert

", (Homelessness: victims of domestic abuse)".

This amendment is consequential on amendment NC16.

The Chair: With this it will be convenient to discuss the following:

Government amendments 41 and 42.

Government new clause 16—*Homelessness: victims of domestic abuse*.

New clause 13—*Homelessness and domestic abuse*—

"(1) Part 7 of the Housing Act 1996 (Homelessness: England) is amended in accordance with subsections (2) to (5).

(2) In section 177(1) and (1A) (whether it is reasonable to continue to occupy accommodation) for each instance of "violence" substitute "abuse".

(3) After section 177(1A) insert—

"(1B) In this Act, "abuse" means—

(a) physical or sexual abuse;

(b) violent or threatening behaviour;

(c) controlling or coercive behaviour;

(d) economic abuse (within the meaning of section 1(4) of the Domestic Abuse Act 2020);

(e) psychological, emotional or other abuse."

(4) At the end of section 189(1) (priority need for accommodation), insert—

"(e) a person who—

(i) is homeless as a result of being subject to domestic abuse, or

(ii) resides or might reasonably be expected to reside with a person who falls within sub-paragraph (i) and is not the abuser."

(5) In section 198 (referral of case to another local housing authority):

(a) In sub-section (2)(c) for "violence" substitute "abuse";

(b) In sub-section (2ZA)(b) for "violence" substitute "abuse";

(c) In sub-section (2A) for "violence (other than domestic violence)" substitute "abuse (other than domestic abuse)";

(d) In sub-section (3) for "violence" substitute "abuse".

(6) Article 6 of the Homelessness (Priority Need for Accommodation) (England) Order 2002, SI 2002/2051, is amended in accordance with subsection (7).

(7) In Article 6,

(a) after "reason of violence" insert "(other than domestic abuse)";

(b) after "threats of violence" insert "(other than domestic abuse)"."

This new clause amends Part 7 Housing Act 1996, concerning local housing authorities' duties to homeless applicants, for England. It updates the definition of "domestic violence" to that of "domestic abuse" and removes the requirement that a person who is homeless as a result of domestic abuse must also be vulnerable in order to have a priority need.

Victoria Atkins: It is a pleasure to serve under your chairmanship, Ms Buck. I am pleased today to be able to bring forward new clause 16, which will amend the Housing Act 1996 to give those who are homeless as a result of being a victim of domestic abuse priority need for accommodation secured by the local authority. The Government believe that it is vital that domestic abuse victims who are homeless or at risk of homelessness are supported to find an accommodation solution that meets their needs and reflects their individual circumstances.

In April 2018 the Homelessness Reduction Act 2017 came into force. That Act, for the first time, puts prevention at the heart of the local authority response to homelessness, irrespective of whether those seeking support are a family or an individual on his or her own, and notwithstanding what has put them at risk. That

means that all households that are homeless or at risk of homelessness should be provided with an offer of support from their local authority to find appropriate accommodation.

Since the 2017 Act was implemented, more than 200,000 households have had their homelessness successfully prevented or relieved. However, for those who need more support, it is right that the local authority should have a duty to house them immediately and secure accommodation for them. Under homelessness legislation, a person who is pregnant, has dependent children or is vulnerable as a result of having to leave accommodation because of domestic abuse, already has priority need for accommodation.

However, the Government are now going further. Through new clause 16, the Government will automatically give domestic abuse victims priority need for accommodation. That change will mean that consideration of vulnerability will no longer be required for domestic abuse victims to be entitled to accommodation secured by the local authority. If the authority is already satisfied that an applicant is homeless as a result of being a victim of domestic abuse, that victim and their family should not need to go through an additional layer of scrutiny to identify whether they are entitled to be accommodated by the local authority. The amendments to the Housing Act will help ensure that victims do not remain with their abuser for fear of not having a roof over their head. Alongside the announcement made in the spring Budget to extend exemption from the shared accommodation rate to victims of domestic abuse, that should support victims to move into a place of their own where they can feel safe and secure.

New clause 13, tabled by the hon. Member for Bermondsey and Old Southwark, who is not here today, would have the same effect as the Government's new clause 16. The one difference is that the hon. Gentleman's new clause would also extend priority need status to other persons residing in the same household as a victim of domestic abuse. I want to assure the Committee that such provision is not needed. Where an applicant has priority need, the Housing Act already requires local authorities to provide accommodation that is "suitable" for the household. There is therefore no need for each member of the household to have priority need. Amendments 40 to 42 are consequential on new clause 16.

Alex Davies-Jones (Pontypridd) (Lab): Diolch yn fawr, Ms Buck. It is my pleasure to speak to new clause 13, which outlines the need for more stringent housing support for those fleeing domestic abuse in their current households. Colleagues may recall—I certainly will not forget it, and will be dining out on it for a while—that last week the Minister kindly coronated me as the princess of Wales. I was most flattered by the proclamation and make no apologies for speaking up for people across Wales. I plan to use my new-found royal status to ensure that the voices of Welsh victims of domestic abuse are heard and protected in the Bill.

We all know that with great royal power comes great responsibility. I will be using my voice today to focus on themes that are relevant across the board in England. It is clear that domestic abuse has no boundaries; it does not care what nation you are from or what language you speak. It is imperative that we ensure that collaborative working between both nations covered by the Bill can continue if we are to strengthen the spirit of the Union.

I am delighted to speak to new clause 13. I pay tribute to the hard work of my colleague the hon. Member for Bermondsey and Old Southwark for prioritising the housing needs of survivors of domestic abuse. Sadly, he is unable to join us today, and I know that all Committee members wish him well.

The Government's change of heart following the brilliant campaign by the all-party parliamentary group for ending homelessness is a welcome step, and these changes will undoubtedly save lives. The campaign was supported by MPs across the House, and a number of organisations in the domestic abuse sector were involved. I hope that colleagues will afford me the opportunity to list the organisations that played a vital role and that are standing together against domestic violence: Crisis, Women's Aid, Refuge, the Domestic Abuse Housing Alliance, St Mungo's, Surviving Economic Abuse, Shelter, Homeless Link, Depaul, Centrepoint, Hestia, Changing Lives, the Chartered Institute of Housing, The Connection at St Martin-in-the-Fields, and Latin American Women's Aid.

It is clear that in England there is a gap in the support offered to those fleeing domestic abuse. These are very real people who are making the brave and bold decision to flee from an unsafe household. We must remember that, because it can be easy to lose sight of that as we sit in this place and discuss the technicalities of the Bill. They should be our priority, but the current system is failing them.

Research by the APPG last year showed that nearly 2,000 households fleeing domestic abuse each year in England are not provided with a safe home, because they are not considered to be in priority need for housing. Colleagues may be aware that during the APPG's inquiry into domestic abuse and homelessness in 2017, there was clear evidence that local authorities in England were consistently failing to provide people fleeing domestic abuse with the help they need.

I was particularly concerned to read about the vulnerability test being used as a gatekeeper tool by local councils across England. I am pleased that we will now be able to reverse that trend and provide those who are fleeing domestic abuse with a real opportunity to rebuild their lives, yet the amendment still does not go far enough. Despite initial informal commitments from the Ministry of Housing, Communities and Local Government to adopt the APPG's amendment word for word, there are now some key differences in the final amendment, which could undoubtedly lead to some domestic abuse victims in England who require housing support falling through the cracks.

The APPG's amendment would ensure that anyone in a household who applies for homelessness assistance in England due to domestic abuse would qualify for automatic priority need and have a legal right to a safe, permanent home. It is extremely disappointing that the wording of the Government's amendment means that survivors would be required to physically make the application for homelessness assistance themselves in order to receive automatic priority need. Both the domestic abuse and homelessness sectors have expressed concern that the Government's amendment fails to guarantee adequate protection to survivors of domestic abuse.

[Alex Davies-Jones]

Colleagues will be aware that a note from the APPG, containing more information, was circulated to Committee members recently. I am aware that the hon. Member for Harrow East (Bob Blackman), in his capacity as co-chair of the APPG, recently wrote to Ministers and received a reply indicating that the Government do not intend to change their position on this. The Government response states:

"Allowing a member of the household to make the application could allow a perpetrator to manipulate the situation and frame themselves as the 'new partner', using the victim to obtain accommodation for their own gain and allow the abuse to continue."

However, the domestic abuse sector does not agree.

The APPG's amendment makes it clear that priority need status for settled housing can be guaranteed regardless of whether the homelessness application is made directly by someone in the household who is experiencing domestic abuse. In comparison, the Government's amendment would not allow for other members of the household to make the application. So many examples spring to mind of where domestic abuse victims could slip through the cracks under the terms of the Government's amendment, such as children who have had to flee an abusive situation with their mother.

Specifically, this is relevant in a context where only the mother has been abused but the children are not able to reside with their mother, perhaps due to parental addiction or the children being adults. Similarly, if a mother and her children were facing abuse by an adult child against one or more siblings who are under 16, but not against the mother, they would not be entitled to seek urgent support. I hope colleagues will forgive my listing the technicalities of those situations, but they are very real and present in all the communities that each of us represents and serves.

Allowing a member of another household to make an application for homelessness assistance on behalf of an individual who is the victim of domestic abuse is a vital safeguarding mechanism for those fleeing abuse. The strength it takes to flee an abusive household is undeniable, but it will not always be safe or suitable for victims of abuse to make an application for assistance in person. In many cases it will be too dangerous for them to leave their home until they know that they have somewhere safe to seek refuge, or there could be logistical issues, such as where a victim is receiving hospital treatment. For other groups of people considered to be in automatic priority need for settled housing in England, it is already the case that someone else in the household is able to make the application—for example, if a woman is pregnant, their partner is able to make an application on their behalf. The same principle must be extended to people who are fleeing domestic abuse.

Having spent some time discussing the provisions needed in England, I will turn my attention back to my home nation of Wales, to highlight the impact that the truly groundbreaking Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 has had. In Wales, the Labour Government have implemented legislation that puts a duty on the devolved public sector to prevent, protect and support. This has increased understanding and built referral routes to specialist support, allowing local authorities to work alongside and in conjunction with those specialists in order to ensure rapid support for those who need it. After a decade of funding cuts to local authorities across the UK, it is clear that those local authorities are under pressure, particularly when it comes to the housing crisis that we see up and down the country. I urge the Government to reconsider and allow more flexibility for domestic abuse victims who are seeking urgent housing support.

Finally, I hope that colleagues will indulge me as I use some key case studies to highlight the importance of a more accessible system for applying for homelessness assistance. At Women's Aid, one service user said:

"After a year of fallout, I was still homeless and on my backside—it felt like I was worse off for going through 'the system'."

A key worker from Solace Women's Aid—a fantastic charity based in the constituency of my hon. Friend the Member for Bermondsey and Old Southwark—said:

"A lot of women I work with have a secure tenancy. They really don't want to leave the secure tenancy. But then often they might not have a lot of choice… some women will prefer to…take massive risks…than leave it."

One case highlighted by Crisis was that of Danielle, who was made homeless when her relationship ended, after her neighbour called the police following a two-day beating. Despite visible bruising and a letter from her partner admitting the abuse, she was told by the council that she needed to provide further evidence of her vulnerability, and that she was not a priority. So she ended up homeless and sofa-surfing for more than two years.

An anonymous survivor said that he had escaped a three-year abusive relationship where, on occasion, his partner had locked him in a room for five days and beaten him so severely that he was confined to a wheelchair. When he approached the council, he was refused help with finding a safe home, which left him with no option but to sofa-surf for several months. Eventually, a charity that supports victims of domestic abuse helped him to deal with the council, and he is now socially housed.

It is clear from those testimonies that we have an opportunity to change the course of people's lives and affect their ability to regain their independence following a period of domestic abuse. It is not unreasonable to allow for a more flexible system to ensure that victims can get access to the housing support they need. That additional power would improve people's ability to flee, and could be hugely powerful as a lifeline for those in need. The new clause is well written, with substantive detail. I ask that the people I have talked about be made a priority.

Victoria Atkins: I thank the hon. Lady for her comments. In the spirit of the Bill, and of the Committee, let us welcome the fact that we are making changes in the area in question. It is fantastic that new clause 16 has been tabled.

There is a sliver of disagreement between the Government and the hon. Members for Pontypridd and for Bermondsey and Old Southwark, on the role of other people in the household. We have heard a great deal—just in the Committee Room, let alone in our experiences outside it—of the manipulative nature of some perpetrators and their ability to seize an opportunity against their victim, use it for their own ends and do incredible damage to the victim. Also, the children are often victims. Victims of domestic abuse may be vulnerable

and at risk of such manipulation—of being controlled by the perpetrator, whether that is a partner in an intimate relationship, as described in clauses 1 and 2, or indeed a family member. It was against that backdrop that we drafted the clauses.

Our primary concern, on the sliver of disagreement between us, is that an abusive partner could apply for new housing under the approach suggested by the hon. Lady, to the detriment of the victim and the gain and advantage of the perpetrator. Clearly no one wants that.

I take the point about the need to ensure that the system is sensitive to the needs of victims. Indeed, I am pleased that my hon. Friend the Member for Harrow East, who has led the campaign with the hon. Member for Bermondsey and Old Southwark, wrote to my hon. Friend the Under-Secretary of State for Housing, Communities and Local Government, the Member for Thornbury and Yate (Luke Hall), who responded on 10 June. In the course of the correspondence and conversations, the hon. Lady's concerns were clearly canvassed as well. My hon. Friend the Under-Secretary told my hon. Friend the Member for Harrow East that there is already the flexibility in the system to take care of cases where someone has difficulty making their own application, whether that is because they are in a hospital bed or because they are in a refuge that they cannot leave.

The homelessness code of guidance covers such circumstances. Paragraphs 11.13 to 11.16 make it clear that where a face-to-face appointment does not meet the applicant's needs, assessments can be completed on the telephone or internet, or with the assistance of a partner agency. As for the case studies that the hon. Lady raised, I very much hope that, under new clause 16, Women's Aid and the other fantastic organisations that we all support would be able to help the victims who could not make applications face to face because of their circumstances.

The hon. Lady raised the issue of secure tenancies. Again, that is addressed in the Bill, in clause 65. Our slight disagreement, as I have said, is on the point about a perpetrator's ability to manipulate.

We want victims to have full control and ownership of their homelessness application and the accommodation offer from the local authority. That is what new clause 16 manages to achieve.

9.45 am

The hon. Member for Pontypridd also raised what she called the analogous example of pregnancy. Pregnancy is different. It does not—one would hope—involve the same relationship of abuse, manipulation, and coercive and controlling behaviour, and the assessment of priority need is pretty straightforward. One can assess that someone is pregnant without the need for expert evidence past a certain stage. I would argue that that is a different set of circumstances.

For these particular circumstances of abuse, we are clear that we want to give power back to the victim and to enable the victim to make the application with the sensitivities that I have set out in the homelessness code. We will update the homelessness code of guidance as part of this change coming into effect. We will take the opportunity to ensure that the guidance is clear about the need to ensure that victims are appropriately supported by local authorities to make this application. We will reinforce to all local authorities that all homeless applicants, including victims of domestic abuse, are able to be accompanied by a friend, family member or support worker, if they wish.

Jess Phillips (Birmingham, Yardley) (Lab): The Minister used the term "all victims". Does the new clause cover those victims who are working in this country but have no recourse to public funds?

Victoria Atkins: We will come to debate that set of circumstances tomorrow. In terms of homeless applicants, including victims of domestic abuse, we are dealing with this within the confines of the regulations as they apply at the moment.

Amendment 40 agreed to.

Jess Phillips: I beg to move amendment 55, in clause 66, page 49, line 42, after "children" insert ";

(c) the support employers should provide to victims of domestic abuse, including through the provisions of paid leave."

This amendment would ensure that employers are provided with guidance about the support they should provide to victims of domestic abuse, including provision of paid leave.

I did not do this last week, but I just want to say a massive thank you to the people in the Public Bill Office. The amount of work that has gone into these amendments might be clear from the number of times that I stand on my feet. It is important to thank the people who sit in the background doing all that work, having an argy-bargy with all of us as we try to table amendments. They are a godsend, so I want to say a massive thank you to them.

This amendment goes back to the Committee's conversations last week about workplaces. In part, the Government's announcement of a review of domestic abuse in the workplace potentially covers what this amendment seeks to do. It did not exist when I tabled the amendment.

This amendment is about workplace guidance, which would ensure not only that a victim is supported, but that secondary benefits are offered to other employees, who would be indirectly affected by the abuse happening at their workplace. Without guidance, we expect employers just to know what to do. In many cases, which I spoke of last week, they have considered terminating employment in order to protect their business and their employees, removing the only lifeline that a victim might have. Often, when we try to change things in the workplace—certainly in relation to an equalities framework—the argument we get back is, "This will be too onerous on big and small business." Over the past couple of years, however, I have seen that businesses are truly interested in trying to do something about this.

I was called to one of those fancy things where lots of businesses sit around a table in a fancy building. It was so fancy that I saw Anna Wintour from *Vogue* in the lift—she was exactly as Members might imagine. Businesses from all over the country came to listen to me talk about what they might be able to do to help domestic violence victims in their workplaces. Various companies, such as Lloyds and Vodafone, have offered two weeks' full pay to victims of domestic abuse.

Studies by those organisations—EY, for example, has done a specific study, such is the nature of its business—show that although that right was appreciated and used

[Jess Phillips]

when needed, no employee had taken the full two weeks off as part of their paid employment. Those organisations are trying to be proactive. We have to make sure that that is available for everybody.

During my work on sexual harassment at work, I was often on the phone to fancy people in Los Angeles who ran the Time's Up campaign. I constantly used to say, "We mustn't forget about Brenda in Asda. We mustn't forget that the person we are talking about is actually a woman called Brenda in Asda." The same applies to the amendment, which seeks an element of paid leave as well as guidance for employers who want to do more than simply step forward and be the goodies and go to fancy lobby lunches to talk about these issues. We have to truly seek to change that.

The Government have suggested that they are going to hold a consultation and review what exactly that will mean. I have absolutely no doubt about what the findings will be. They will be the same as those reached over a number of years by different groups, including the all-party parliamentary group on domestic violence and abuse, working alongside the Employers' Initiative on Domestic Abuse and the TUC. An unusual group of people have been working on this for a while. There are rabble-rousing union stewards working alongside some of the poshest organisations I have ever worked with. Those meetings are always a delight. We have taken evidence from New Zealand, for example, where that right already applies.

I will not press the amendment to a vote. It was tabled before the Government announced any sort of action in this area. It is merely a probing amendment, given that businesses have told us that they would not find onerous.

Victoria Atkins: The amendment brings us to the role that employers can and should play in supporting employees who are victims of domestic abuse. The Government expect all employers to show compassion when faced with cases of domestic abuse. It is important that the Government help employers to support victims. We recognise the excellent work of organisations that provide guidance to help employers to do more. The Employers' Initiative on Domestic Abuse, for example, does great work and has increased the services that it can provide employers during covid-19, because it recognised its ability to send messages through its network of support. We very much support and applaud that sort of work.

Public Health England, in partnership with Business in the Community, which is a business-led membership organisation, provides an online domestic abuse toolkit, including advice on developing a workplace policy and guidance on practical workplace support. Although not specifically designated for victims of domestic abuse, some existing employment rights can help to support victims who face particular circumstances. For example, statutory sick pay may be available where the employee is suffering from physical injury or psychological harm. The right to request flexible working may also help in circumstances where working patterns or locations need to change. We committed in our manifesto to taking that further and consulting on making flexible working the default. In addition to the statutory right, many employers offer compassionate leave or special leave to their employees to enable them to take time to deal with a wide range of circumstances. That leave is agreed between the employer and the employee, either as a contractual entitlement or on a discretionary basis.

We accept, however, that that framework of rights may not work for every circumstance faced by victims of domestic abuse. There may be more that the Government can do to help employers better support those who are experiencing abuse. That is why the Department for Business, Energy and Industrial Strategy last week launched a review of support in the workplace for victims of domestic abuse. I always like to give the end date of such consultations so that colleagues are nudged into responding if at all possible: the end date is 9 September 2020. I ask colleagues to please submit their views and those of their networks of contacts, charities and businesses.

The review invites contributions from stakeholders, covering the practical circumstances that arise in relation to domestic abuse and work, best practice by employers, and where there is scope for the Government to do more to help employers protect victims of domestic abuse. We will also host events to build the evidence base further, before publishing the findings and an action plan by the end of the year. Our view is that the Government review provides the right framework for identifying how the Government can best help employers to support victims of domestic abuse. It creates a firm basis on which to make progress.

I am pleased that the hon. Member for Birmingham, Yardley has indicated that this is a probing amendment, so I invite her to withdraw it.

Jess Phillips: I thank the Minister. If anyone in this room were faced with an employee—and I have been in this situation a number of times—going through a court case, I cannot imagine that anybody, no matter whether they were working here or elsewhere, would expect that person not to be paid or even to be paid statutory sick pay for that period. However, that is the reality for the vast majority of people. Victims of domestic abuse need access to a specific sort of leave. That would change the culture in an organisation, and including information about it in the big pack that people receive on their first day would be a real sign that they could speak to their boss about it.

Asking for sick leave or compassionate leave because you have been raped is completely different from doing so because your mother has died. It is much easier for someone to ask their boss for leave because a relative has died than to do so because they might have been raped the night before. If someone's house was broken into, they would ring their boss in the morning and say, "My house has been broken into. I can't come in today because the police are coming." That is a different conversation from, "My husband beat me up last night. I'm sorry I can't come in, but the police are coming over." It is not the same. We need to change the culture from the top down, to make sure there is a marker that shows people that if they have to go to court—which can take weeks and weeks—and if they need to flee, something can be done.

The Minister mentioned different guidance. The TUC says that its guidance on domestic abuse is the most downloaded piece of guidance ever from its website. Let us hope that culture is changing and that the review

mentioned by the Minister shows real courage on what needs to change in the workplace. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Christine Jardine (Edinburgh West) (LD): I beg to move amendment 47, in clause 66, page 49, line 42, at end insert—

"(2A) The Secretary of State must issue separate statutory guidance on domestic abuse that also constitutes teenage relationship abuse and such guidance must address how to ensure there are—

(a) sufficient levels of local authority service provision for both victims and perpetrators of teenage relationship abuse,

(b) child safeguarding referral pathways for both victims and perpetrators of teenage relationship abuse.

(2B) The guidance in subsection (2A) must be published within three months of the Act receiving Royal Assent and must be reviewed bi-annually.

(2C) For the purposes of subsection (2A), teenage relationship abuse is defined as any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse, which can encompass, but is not limited to psychological, physical, sexual, economic and emotional abuse, including through the use of technology, between those aged 18 or under who are, or have been in a romantic relationships regardless of gender or sexual orientation."

This amendment would place a duty on the Secretary of State to publish separate statutory guidance on teenage relationship abuse. The statutory guidance would cover not just victims of teenage domestic abuse but extend to those who perpetrate abuse within their own teenage relationships.

This cross-party amendment addresses teenage relationship abuse. It would place a duty on the Secretary of State to issue separate statutory guidance on how to support teenagers who either experience or may display abusive behaviour in their relationships. To be clear, the amendment does not advocate lowering the age limit for domestic abuse or criminalising anyone. We have to acknowledge that domestic abuse is not like a driving licence or a coming of age, because we know that it does happen to people before they turn 16. The amendment acknowledges that teenage abuse is a reality, and calls for the production of separate statutory guidance and recognition that young people, whether victims or perpetrators, need special referral pathways and service provisions that are appropriate for them and for their age.

Liz Saville Roberts: I am sure that the hon. Lady will greet the fact that this amendment would align English and Welsh legislation with safeguarding procedure in Wales, which presently acknowledges peer-on-peer abuse. That consistency of approach would be advantageous in enabling better service support to follow on from it.

Christine Jardine: I thank the hon. Lady for that excellent and very well-made point. If the Bill is to be as successful as everybody wants it to be, this amendment provides an opportunity to take early action to support and encourage young people away from a path that could lead to an abusive or an abused life. It is also very much in the spirit of much of the evidence we heard during our first sitting and much of what we have said in this room about recognising the impact that domestic abuse has on young people and the need to protect them from it throughout their lives.

The Bill in its current form defines domestic abuse as taking place between two persons above the age of 16—as I have said, we can recognise that people do not miraculously change when they are 16—and yet the evidence shows that to define it in those terms is to miss out vulnerable, troubled and an abused section of our young people who are unseen, unheard and, as a result, unsupported.

10 am

We know, however, that abuse takes place between younger teenagers. According to the National Society for the Prevention of Cruelty to Children, 25% of girls—one in four girls—between the ages of 13 and 17 have reported some sort of physical relationship abuse. That is very similar to the rate in the adult population. Ministers will be aware that that sparked an awareness campaign by the Home Office and that prevention work was done in schools, but I am afraid to say that not much has changed since then.

More recently than the NSPCC, the Children's Society undertook a piece of work between April 2018 and March 2020, which found that out of 218 young people whom the society worked with in a range of services, 25%—one quarter; again, one in four—had experienced physical abuse in relationships. At 57%, more than half had experienced some form of emotional abuse.

One thing stopped me short when I read the evidence: the majority of the victims were aged between 14 and 17, but some of them were as young as 10—these are children being damaged already. Age seemed to make little difference to the sorts of abuse that they experienced, the only difference being that, from 16, the statutory agencies recognise it as domestic abuse and in some cases offer specialist support. But it should not just start at 16. All young people need to have that availability. And although they need a different response from adults, that does not mean that they should be excluded from the Bill.

I know that the Minister evaluated the Government's response to this form of abuse, but I think we need to draw different conclusions. I will outline why. The "Working Together to Safeguard Children" guidance, or how-to manual, for all agencies makes no reference whatever to teenage relationship abuse. That is an oversight. It has led to local policies, referral pathways and service provision that do not meet needs. Recent research by the Children's Society found that just 21% of local authorities had a policy or protocol in place for responding to under-16s, and only one local authority could provide details of referral pathways. Surely that is not good enough.

Policies and guidance matter. They are the starting point for recognising and responding to forms of abuse and they enable all agencies to work with the same understanding. Without a multi-agency approach, organisations, schools, local authorities and others work in silos, and that minimises the impact that they can have. If they all work together—like we are doing—they can have a fantastic impact. Working in silos lessens the impact.

In education, a survey of just under 18,000 secondary school pupils in February of this year found that 51% said that they could spot the signs of an abusive relationship. I find it quite scary that 51% of teenagers said that.

Some went on to say that they would not know how to leave an abusive partner, so clearly the lessons that they are getting are not working in education.

We welcome the introduction of compulsory relationship and sex education lessons. However, for some years many schools have already adopted school-based healthy relationship initiatives, and yet abuse among teenagers remains pervasive. We have to recognise that it is a problem, and education is just one piece of the puzzle. If there are no services available to understand and change abusive behaviour, we will not see the progress necessary to tackle that form of abuse; and, if we do not tackle such abuse, we allow it to develop as people grow and get older. That is the point at which we need to get it.

Brilliant work is being done by specialist independent domestic violence advisers, working with young people who experience abuse. They provided a response to the pre-legislative Committee, but only one third of services actually offer specialist support. The Children's Society found that only 39% of local authorities commission the specialist service for under-16s and that just over half provide specialist support to 16 and 17-year-olds. That suggests that, despite 16 and 17-year-olds being brought into the scope of the definition of domestic abuse some four years ago, there are still significant gaps in the specialist services available to them.

This amendment would ensure that 13 to 18-year-olds experiencing abuse and presenting as abusive are seen, and that the abuse is understood so that specialist referral pathways and services are designed in an effective child-centred way. I know that the Government have expressed concerns previously about criminalising young people who display abusive behaviour. I agree. That is why support must be offered as early as possible to change that behaviour, to prevent them not just from being criminalised at a young age but criminalised as adults. Surely we want to avoid teenagers with a problem becoming adults with a problem.

Prevention must begin at the outset of displaying abusive behaviour, not when the behaviour has set in as adults. Early intervention specialist support is effective for young victims as well. One young person violence adviser said that the young girl she had supported in abusive relationships did not reappear in later life.

My question is, why would we not want to ensure that the Domestic Abuse Bill is preventive? Why would we not want to ensure that it reaches out to young people, some of them children, sets them on the right course and has the referral pathways for them? Surely that is so much better than having to pick up the pieces of broken young lives.

Victoria Atkins: I thank the hon. Lady for her powerful speech and for setting out the case for the amendment.

We know that domestic abuse in teenage relationships has the potential to shape adult lives. We know that it can be severe and can have many consequences outside the two people in the relationship. We are clear that the impact of domestic abuse on young people, including those in abusive relationships, exists and that we need to ensure that agencies are aware of it and of how to identify and respond to it.

The Bill's definition states that behaviour is domestic abuse if parties are aged 16 or over. I note that that was supported by the Joint Committee and, indeed, by the evidence we heard from Lucy Hadley of Women's Aid and Andrea Simon of the End Violence against Women Coalition at the evidence session of this Bill Committee. We are of the view that having a minimum age of 16 years does not deny that younger children are not impacted or affected by domestic abuse, including in their own relationships.

I have no doubt that the amendment is well intentioned. However, having established that minimum age as the threshold in the definition of domestic abuse, it follows that any statutory guidance issued under clause 66 of the Bill, which relies on the definition in clause 1, cannot and should not as a matter of law, address abuse between people who are aged under 16.

That is not to say that the guidance issued under clause 66, which addresses abuse between older teenagers, cannot have wider application. There are other sources of guidance for younger age groups. We intend to publish a draft of the guidance ahead of Report and, in preparing that draft, we have worked with the children's sector, among others, to include the impacts of abuse in older teenage relationships within the guidance. Clearly, we will continue to work with the children's sector to ensure that the guidance is as effective, thorough and accessible as it can be before it is formally issued ahead of the provisions in clauses 1 and 2 coming into force.

Nickie Aiken (Cities of London and Westminster) (Con): As the Minister knows, I have concerns about this—I spoke to her when in listening mode. At the evidence session two weeks ago, for me the powerful evidence was from the Local Government Association spokesperson, the leader of Blackpool Council, whom I questioned specifically. He said that he felt that under-16s were dealt with under the Children Act. Does my hon. Friend agree that there are other ways of dealing with the matter?

Victoria Atkins: I thank my hon. Friend for her contributions, her canvassing of views sympathetic to the situations faced by teenagers under 16, and her work on that. She is right to point out the evidence of Councillor Simon Blackburn. He is an experienced councillor and also, in a previous life, was an experienced social worker. He contributes on behalf of the Local Government Association in all sorts of forums on which he and I sit—not just on domestic abuse, but on other areas of vulnerability.

I appreciate that it sounds rather lawyerly to focus on the age range, but we are careful not to tamper inadvertently, albeit with good intentions, with the strong safeguarding mechanisms in the Children Act. That is why we are not able to accept the amendment to the guidance, given that the guidance is based on the definition in clauses 1 and 2. However, other forms of information are available and as of September relationships education will be introduced for all primary pupils, and relationships and sex education will be introduced for all secondary school pupils. That education, particularly for primary schools, will cover the characteristics of healthy relationships, and will help children to model the behaviours with knowledge and understanding, and cover what healthy relationships look like. Of course, as children grow up and mature, the education will grow and develop alongside them, to help them as they are setting out on those new relationships.

In addition, the important inter-agency safeguarding and welfare document produced by the Department for Education called "Working together to safeguard children" sets out what professionals and organisations need to do to safeguard children, including those who may be vulnerable to abuse or exploitation from outside their families. It sets out various scenarios, including whether wider environmental factors are present in a child's life and are a threat to their safety and/or welfare.

Finally, of course, the courts and other agencies should also take into account relevant youth justice guidelines when responding to cases of teenage relationship abuse, avoiding the unnecessary criminalisation of young people, and helping to identify appropriate interventions to address behaviours that might constitute or lead to abuse. As I have said, I appreciate the intentions underlying the amendment, but I return to the point that the age limit was on careful reflection set at 16 in the definition, and so the statutory guidance must flow from that.

Christine Jardine: Having heard the Minister's comments, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Christine Jardine: I beg to move amendment 84, in clause 66, page 49, line 42, at end insert—

'(2A) The Secretary of State must issue guidance under this section which takes account of evidence about the relationship between domestic abuse and offences involving hostility based on sex.

(2B) In preparing guidance under subsection (2A) the Secretary of State must require the chief officer of police of any police force to provide information relating to—

(a) the number of relevant crimes reported to the police force; and

(b) the number of relevant crimes reported to the police force which, in the opinion of the chief officer of police, have also involved domestic abuse.

(2C) In this section—

"chief officer of police" and "police force" have the same meaning as in section 64 of this Act;

"domestic abuse" has the same meaning as in section 1 of this Act;

"relevant crime" means a reported crime in which—

(a) the victim or any other person perceived the alleged offender, at the time of or immediately before or after the offence, to demonstrate hostility or prejudice based on sex,

(b) the victim or any other person perceived the crime to be motivated (wholly or partly) by hostility or prejudice towards persons who are of a particular sex, or

(c) the victim or any other person perceived the crime to follow a course of conduct pursued by the alleged offender towards the victim that was motivated by hostility based on sex;

"sex" has the same meaning as in section 11 of the Equality Act 2010.'

This is another cross-party amendment. Misogyny is the soil in which violence against women and girls grows. That was said by Sophie Maskell of the Nottingham women's centre, but it is a sentiment that sums up much of what the Bill is about. The amendment is an attempt to attack the problem at its root. It would do two things. First, by requiring all police forces to record misogyny as a hate crime it would allow us to assess how it influences domestic abuse and begin to understand the nature of violence against women and girls. That way, we might begin to overcome it, not pick up the pieces. Protecting survivors, making sure support systems are in place and constantly looking for improvements are all important, but understanding the roots of the problem and attacking it there is crucial. If we understand the nature and motivations of violence against women and girls, we can begin to prevent it in the first place.

This approach is already proving successful in Nottinghamshire, and has the support of many women's charities including Refuge, Women's Aid, Plan International, Southall Black Sisters, Citizens UK, Tell MAMA, Hope not Hate, the Jo Cox Foundation and more. The Law Commission is about to launch a consultation on the issue, but that is no reason not to start to record data, monitor incidents and get a full picture of where and how violence against women happens, so we can influence its prosecution and understand the role misogyny plays in it.

10.15 am

The second effect of the amendment would be to strengthen the status of the legislation by seeking to ratify the Istanbul convention, which this country signed eight years ago last week but has still not ratified. For so many women's organisations in this country, that delay is inexplicable.

Liz Saville Roberts: Given that this is a landmark piece of legislation, I am sure that many Members present share my concern about the fact that we are failing to ratify the Istanbul convention with it. Surely we should be taking the chance to do so through this amendment, as well as a measure we will be discussing tomorrow.

Christine Jardine: I thank the right hon. Lady, and absolutely agree. We have a number of opportunities in this Committee to ratify the convention through this Bill. It is an international women's rights treaty that this country signed, yet it is one of a handful of countries that still has not taken the steps the convention demands. Recognising misogyny as a hate crime would go some way towards achieving the goals of the treaty.

I will step back for a minute to explain why we should record misogyny as a hate crime, and what exactly I mean by a hate crime. Hate crime is defined as criminal behaviour where the perpetrator is motivated by hostility, or demonstrates hostility, towards a protected characteristic of the victim. Intimidation, verbal abuse, intimidating threats, harassment, assault, bullying and damaging property are all covered. Hate crime law is rooted in a need to protect people who are targeted because of their identity, and is defined as

"Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on"

a protected characteristic. Currently, those characteristics are defined as disability, transgender status, race, religion and sexual orientation under the relevant sections of the Crime and Disorder Act 1998 and the Criminal Justice Act 2003, and allow prosecutors to apply for an uplift in sentencing.

Where does misogyny fit into that and affect it? Women and girls from a black, Asian and minority ethnic background often experience hate crimes based on multiple characteristics, and if we do not take misogyny into account, we do not truly get an intersectional understanding of the crime. Sex was the motivation for more than half of the hate crimes women reported last

[Christine Jardine]

year; age was the second most common, followed by race. Some women may be victims of a hate crime because of their ethnicity or religion, and also because they are women. Some 42% of BAME women aged 14 to 21 reported unwanted sexual attention at least once a month. Many women and girls with intellectual disabilities are also disproportionately subjected to street harassment and sexually based violence, for the dual reason that they are disabled and that they are women. Our laws have to protect them equally, and they cannot do so effectively while misogyny is a blind spot.

I have a personal theory. I suspect that all the women in this room are like me, and have always rejected the idea that they are not equal. That is how we come to be here: we do not accept the premise that we are not equal. I grew up in a household with three daughters, and had no reason to believe that we were not equal to anyone else. I have often had the opposite problem, actually. My confidence was taken for aggression that was not appropriate in a woman, because women are not aggressive, apparently. I remember once when the BBC was tackling sexual harassment problems among staff, it launched an assertiveness programme for women. I asked my boss if I could do this assertiveness programme. I could not understand why my colleagues all laughed when I came out. They asked, "How did it go?" I told them that when I asked, "Gordon, is it alright if I do this assertiveness programme?", he said, "I wouldn't dare say no."

Many of us cannot understand how women come to be the victims of misogyny unless it actually happens to us. Although we might think that we are equal, we have all witnessed misogyny everywhere and been the victim of it. We might cope with it, but we have been the victim of it. Harassment and abusive behaviour are often linked to misogyny, which comes from deep-rooted contempt for women and the understanding that we should behave in a certain way, and the belief that if we do not do so, it is acceptable to slap us or abuse us.

I am sure we do not need a reminder, but if we did, Friday's front page of a national tabloid newspaper reminded us all quite firmly: contempt for women, an in-built hatred, misogyny that says it is okay to slap us, bully us or harass us in the street because we are women.

Julie Marson (Hertford and Stortford) (Con): Misogyny is obviously appalling. A lot of us have experienced it. Does she agree that a consultation is really important, because it is a really complex area? Some of my experience and some research into abusive men has shown that a lot of them have borderline anti-social personality traits. They certainly have hostility, but a lot of it comes from things like lack of problem-solving skills, childhood abuse and personality traits, which need to be factored in.

Christine Jardine: I agree that consultation is necessary, but I see that as making the point. Consultation is necessary and we need the data to be able to figure out how much of it is due to borderline personality problems and social background, and how much of it is misogyny. We can only do that by having the police gather the data.

Where misogyny has been identified as a hate crime by police forces, it has helped the way that they address the causes and consequences of violence against women and girls. The proposal in this amendment is not theoretical. Police forces around the country are already doing this, showing the positive impact it can have. In 2016, Nottinghamshire police were the first. Their proposals have gone some way to allowing the Nottinghamshire authorities to see exactly where there are problems and how to deal with them. For four years, women and girls there have been able to report crimes that they regard as hate crimes and misogynistic.

This amendment has, as I said, wide support from women's groups. Let us not wait for the Law Commission before we start working on it. If misogyny is the soil in which domestic abuse flourishes, we have the opportunity with this Bill to root it out, not just to pick up the pieces. We have to support victims and survivors, and we have to encourage perpetrators away from the crime. But if we can identify the different causes of abuse, we can tackle the cause and begin to reduce and eliminate domestic abuse.

Victoria Atkins: The Government are clear that all hate crime is completely unacceptable and has no place in British society. That is why we have tasked the Law Commission to review current hate crime legislation. By way of background, I should say that the Law Commission was asked to review both the adequacy and parity of protection offered by the law relating to hate crime and to make recommendations for its reform.

The review began in March last year, since when the Law Commission has tried to meet as many people as possible who have an interest in this area of law; it has organised events across England and Wales to gather views. Specifically, the Law Commission has been tasked with considering the current range of offences and aggravating factors in sentencing, and with making recommendations on the most appropriate models to ensure that the criminal law provides consistent and effective protection from conduct motivated by hatred towards protected groups or characteristics. The review will also take account of the existing range of protected characteristics, identify any gaps in the scope of the protection currently offered under the law, and make recommendations to promote a consistent approach.

The Law Commission aims to publish its consultation, as the hon. Lady said, as soon as it can, and I again encourage all hon. Members to respond to it. Given that this work by the Law Commission is under way, we do not believe that the time is right for specific guidance to be issued on this matter. Our preference is to await the outcome of the Law Commission's review before deciding what reforms or other measures, including guidance, are necessary. However, I point out that in clause 66(3) we do put the gendered nature of this crime in the Bill. It states:

> "Any guidance issued under this section must, so far as relevant, take account of the fact that the majority of victims of domestic abuse in England and Wales are female."

And of course the guidance itself will reflect that.

The hon. Lady raised the Istanbul convention. We are making good progress on our path towards ratification. We publish an annual report on progress, with the last one published in October 2019. Provisions in the Bill and other legislation before the Northern Ireland Assembly

will ensure that UK law is compliant with the requirements of the convention in relation to extraterritorial jurisdiction and psychological violence, so we are on our way. I very much hope that on that basis the hon. Lady will feel able to withdraw her amendment.

Christine Jardine: Following the Minister's comments, there is just one reservation remaining. If misogyny is a hate crime, we can gather the data. Does the Minister accept or appreciate that perhaps we could start doing that before the Law Commission has reported?

Victoria Atkins: The Law Commission, in all its reviews, is incredibly thorough and of course independent. How long it takes is, I have to say as a Minister, sometimes a little bit frustrating, but that is because it is so thorough, so I cannot criticise the commission for that. I would prefer the commission to do its work so that we have a consistent body of evidence that I hope will enable the Government to draw conclusions as to the adequacy of the existing arrangements, and take steps from there.

Liz Saville Roberts: I wonder by which instrument the hon. Member for Edinburgh West and I might seek to ask the Government whether they will be implementing any recommendations from the Law Commission.

Victoria Atkins: I confess that I had not given thought to that particular detail. Far be it from me to suggest to ingenious Back Benchers how they can hold the Government to account. As I have said, we have the Law Commission review under way, and when the commission has reported, we will, of course, in due course publish our response to that review.

Christine Jardine: Having heard the Minister's comments, I am happy to beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 66, as amended, ordered to stand part of the Bill.

Clause 67

POWER OF SECRETARY OF STATE TO MAKE CONSEQUENTIAL AMENDMENTS

Amendment made: 41, in clause 67, page 50, line 27, after "64" insert ", (*Homelessness: victims of domestic abuse*)".—*(Victoria Atkins.)*

This amendment is consequential on amendment NC16.

Clause 67, as amended, ordered to stand part of the Bill.

10.30 am

Clause 68

POWER TO MAKE TRANSITIONAL OR SAVING PROVISION

Amendment made: 42, in clause 68, page 50, line 38, after "64," insert "(*Homelessness: victims of domestic abuse*),".—*(Victoria Atkins.)*

This amendment is consequential on amendment NC16.

Clause 68, as amended, ordered to stand part of the Bill.

Clauses 69 and 70 ordered to stand part of the Bill.

Clause 71

EXTENT

Amendments made: 38, in clause 71, page 52, line 3, at end insert—

"() section 36(6A),".

This amendment is consequential on amendment 33.

Amendment 39, in clause 71, page 52, line 6, at end insert—

'( ) Section 36(6A) and this subsection (and sections 67 to 69, 72 and 73, so far as relating to those provisions) extend to—

(a) the Isle of Man, and

(b) the British overseas territories except Gibraltar;

and the power under section 384(2) of the Armed Forces Act 2006 may be exercised so as to modify section36 (6A) as it extends to the Isle of Man or a British overseas territory other than Gibraltar.

( ) The power under section 384(1) of the Armed Forces Act 2006 may be exercised so as to extend section 36(6A) of this Act to any of the Channel Islands (with or without modifications).".—*(Victoria Atkins.)*

This amendment is consequential on amendment 33.

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

Victoria Atkins: Understandably, questions have been asked about the territorial extent of the Bill, so I think it right to explain it. This is a standard clause setting out the territorial extent of the provisions in the Bill, the majority of which apply to England and Wales, or to England only. Following discussions with the Scottish Government and the Northern Ireland Department of Justice, the Bill also includes some limited provisions that apply to Scotland and Northern Ireland.

Part 6 of the Bill extends the extraterritorial reach of the criminal courts in each of England and Wales, Scotland and Northern Ireland, to cover further violent and sexual offences. The provisions are a necessary precursor to enable the United Kingdom as a whole to ratify the Istanbul convention, as they will ensure that the law in each part of the UK meets the requirements of article 44.

Question put and agreed to.

Clause 71, as amended, accordingly ordered to stand part of the Bill.

Clause 72 ordered to stand part of the Bill.

Clause 73

SHORT TITLE

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

Victoria Atkins: I would like to speak to this, as I have a sense of mischief today. The clause provides for the short title of the Bill.

Question put and agreed to.

Clause 73 accordingly ordered to stand part of the Bill.

New Clause 15

CONSEQUENTIAL AMENDMENTS OF THE SENTENCING CODE

'(1) The Sentencing Code is amended as follows.

(2) In section 80 (order for conditional discharge), in subsection (3), at the end insert—

"(f) section36(6) (breach of domestic abuse protection order)."

(3) In Chapter 6 of Part 11 (other behaviour orders), before section 379 (but after the heading "Other orders") insert—

"378A Domestic abuse protection orders

(none) See Part 3 of the Domestic Abuse Act 2020 (and in particular section 28(3) of that Act) for the power of a court to make a domestic abuse protection order when dealing with an offender for an offence."" .—*(Alex Chalk.)*

This New Clause makes two consequential amendments to the Sentencing Code as a result of Part 3 of the Bill. The first adds a reference to clause 36(6) to the list of cases where an order for conditional discharge is not available. The second inserts a signpost to Part 3 of the Bill into Part 11 of the Sentencing Code, which deals with behaviour orders.

Brought up, read the First and Second time, and added to the Bill.

New Clause 16

HOMELESSNESS: VICTIMS OF DOMESTIC ABUSE

'(1) Part 7 of the Housing Act 1996 (homelessness: England) is amended as follows.

(2) In section 177 (whether it is reasonable to continue to occupy accommodation)—

(a) in subsection (1), for "domestic violence or other violence" substitute "violence or domestic abuse";

(b) for subsection (1A) substitute—

"(1A) For this purpose—

(a) "domestic abuse" has the meaning given by section 1 of the Domestic Abuse Act 2020;

(b) "violence" means—

(i) violence from another person; or

(ii) threats of violence from another person which are likely to be carried out."

(3) Omit section 178 (meaning of associated person).

(4) In section 179 (duty of local housing authority in England to provide advisory services), in subsection (5)—

(a) for the definition of "domestic abuse" substitute—

""domestic abuse" has the meaning given by section 1 of the Domestic Abuse Act 2020;";

(b) omit the definition of "financial abuse".

(5) In section 189 (priority need for accommodation)—

(a) in subsection (1), after paragraph (d) insert—

"(e) a person who is homeless as a result of that person being a victim of domestic abuse.";

(b) after subsection (4) insert—

"(5) In this section "domestic abuse" has the meaning given by section 1 of the Domestic Abuse Act 2020."

(6) In section 198 (referral of case to another local housing authority)—

(a) in subsection (2), in paragraph (c), for "domestic violence" substitute "domestic abuse";

(b) in subsection (2ZA), in paragraph (b), for "domestic violence" substitute "domestic abuse";

(c) in subsection (2A), in paragraph (a), for "domestic violence" substitute "violence that is domestic abuse";

(d) for subsection (3) substitute—

"(3) For the purposes of subsections (2), (2ZA) and (2A)—

(a) "domestic abuse" has the meaning given by section 1 of the Domestic Abuse Act 2020;

(b) "violence" means—

(i) violence from another person; or

(ii) threats of violence from another person which are likely to be carried out."

(7) In section 218 (index of defined expressions: Part 7), in the table, omit the entry relating to section 178.

(8) In article 6 of the Homelessness (Priority Need for Accommodation) (England) Order 2002 (S.I. 2002/2051) (vulnerability: fleeing violence or threats of violence)—

(a) the existing text becomes paragraph (1);

(b) after that paragraph insert—

"(2) For the purposes of this article—

(a) "violence" does not include violence that is domestic abuse;

(b) "domestic abuse" has the meaning given by section 1 of the Domestic Abuse Act 2020."

(9) In consequence of the repeal made by subsection (3), omit the following provisions—

(a) in Schedule 8 to the Civil Partnership Act 2004, paragraph 61;

(b) in Schedule 3 to the Adoption and Children Act 2002, paragraphs 89 to 92." .—*(Victoria Atkins.)*

This New Clause makes two key changes to Part 7 of the Housing Act 1996 in relation to homelessness in England. First, it amends section 189 to give homeless victims of domestic abuse priority need for accommodation. Second, it amends Part 7 to change references to "domestic violence" to references to "domestic abuse" within the meaning of clause 1 of the Bill.

Brought up, read the First and Second time, and added to the Bill.

New Clause 4

NO DEFENCE FOR CONSENT TO DEATH

'(1) If a person ("A") wounds, assaults or asphyxiates another person ("B") to whom they are personally connected as defined in section 2 of this Act causing death, it is not a defence to a prosecution that B consented to the infliction of injury.

(2) Subsection (1) applies whether or not the death occurred in the course of a sadomasochistic encounter."—*(Jess Phillips.)*

This new clause would prevent consent of the victim from being used as a defence to a prosecution in domestic homicides.

Brought up, and read the First time.

Jess Phillips: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 5—*No defence for consent to injury*—

'(1) If a person ("A") wounds, assaults or asphyxiates another person ("B") to whom they are personally connected as defined in section 2 of this Act causing actual bodily harm or more serious injury, it is not a defence to a prosecution that B consented to the infliction of injury or asphyxiation.

(2) Subsection (1) applies whether or not the actual bodily harm, non-fatal strangulation, or more serious injury occurred in the course of a sadomasochistic encounter."

This new clause would prevent consent of the victim from being used as a defence to a prosecution in cases of domestic abuse which result in serious injury.

New clause 6—*Consent of Director of Public Prosecutions*—

In any homicide case in which all or any of the injuries involved in the death, whether or not they are the proximate cause of it, were inflicted in the course of domestic abuse, the Crown Prosecution Service may not without the consent of the Director of Public Prosecutions, in respect of the death—

(a) charge a person with manslaughter or any other offence less than the charge of murder, or

(b) accept a plea of guilty to manslaughter or any other lesser offence."

This new clause would require the consent of the Director of Public Prosecutions if, in any homicide case in which any of the injuries were inflicted in the course of domestic abuse, the charge (or the plea to be accepted) is of anything less than murder.

New clause 7—*Director of Public Prosecutions consultation with victim's family in domestic homicides*—

'(1) Before deciding whether or not to give consent to charging a person with manslaughter or any other offence less than the charge of murder in an offence of homicide in which domestic abuse was involved, the Director of Public Prosecutions must consult the immediate family of the deceased.

(2) The Lord Chancellor must make arrangements, including the provision of a grant, to enable the immediate family to access legal advice prior to being consulted by the Director of Public Prosecutions under sub-section (1)."

This new clause would require the Director of Public Prosecutions to consult the immediate family of the victim before charging less than murder in a domestic homicide and provide the family with legal advice so they can understand the legal background.

New clause 10—*Prohibition of reference to sexual history of the deceased in domestic homicide trials—*

If at a trial a person is charged with an offence of homicide in which domestic abuse was involved, then—

(a) no evidence may be adduced, and

(b) no question may be asked in cross-examination, by or on behalf of any accused at the trial,

about any sexual behaviour of the deceased."

This new clause will prevent the victim's previous sexual history being used as evidence to prove consent to violence in a domestic homicide case. This draws on the legislative measures in the Youth Justice and Criminal Evidence Act 1999 to prevent rape defendants raking up or inventing complainants' previous sexual history.

New clause 11—*Anonymity for victims in domestic homicides—*

'(1) Where a person ("A") has been accused of a domestic homicide offence and where the person ("B") against whom the offence is alleged to have been committed has died in the course of sexual activity, no matter likely to lead members of the public to identify a person as B shall be included in any publication.

(2) The matters relating to a person in relation to which the restrictions imposed by subsection (1) applies (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular—

(a) the person's name,

(b) the person's address,

(c) the identity of any school or other educational establishment attended by the person,

(d) the identity of any place of work,

(e) any still or moving picture of the person.

(3) If, at the commencement of the trial, any of the matters in subsection (2) have already appeared in any publication, the judge at the trial may direct that no further reference to any of these matters may be included in any publication.

(4) If any matter is included in a publication in contravention of this section, the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—

(a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;

(b) where the publication is a relevant programme—

(i) anybody corporate engaged in providing the programme service in which the programme is included; and

(ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;

(c) in the case of any other publication, any person publishing it.

(5) For the purposes of this section— "domestic homicide offence" means an offence of murder or manslaughter which has involved domestic abuse; a "publication" includes any speech, writing, relevant programme, social media posting or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings."

This new clause will provide the victim of a domestic homicide with public anonymity.

New clause 14—*Anonymity of domestic abuse survivors in criminal proceedings—*

'(1) Where an allegation has been made that a relevant offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the survivor.

(2) Where a person is accused of a relevant offence, no matter likely to lead members of the public to identify the person against whom the offence is alleged to have been committed as the survivor shall during the survivor's lifetime be included in any publication.

(3) This section does not apply in relation to a person by virtue of subsection (1) at any time after a person has been accused of the offence.

(4) The matters relating to a survivor in relation to which the restrictions imposed by subsection (1) or (2) apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include—

(a) the survivor's name;

(b) the survivor's address;

(c) the identity of any school or other educational establishment the survivor attended;

(d) the identity of any place where the survivor worked;

(e) any still or moving pictures of the survivor; and

(f) any other matter that might lead to the identification of the survivor.

(5) At the commencement of a trial at which a person is charged with a relevant offence, the judge may issue a direction for lifting the restrictions only following an application by or on behalf of the survivor.

(6) Any matter that is included in a publication in contravention of this section must be deleted from that publication and no further reference to the matter may be made in any publication.

(7) If any matter is included in a publication in contravention of this section, the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;

(a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;

(b) where the publication is a relevant programme—

(i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included; and

(ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;

(c) in the case of any other publication, any person publishing it.

(8) For the purposes of the section—

"publication" means any material published online or in physical form as any well as any speech, writing, website, online news outlet, social media posting, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public.

a "relevant offence" means any offence where it is alleged by the survivor that the behaviour of the accused amounted to domestic abuse.

"survivor" means the person against whom the offence is alleged to have been committed."

This new clause provides lifetime press anonymity for survivors of domestic abuse, and reflects similar protections for survivors of sexual assault enshrined in the Sexual Offences (Amendment) Act 1992. It prevents identifiable details from be published online or in print, and creates a new offence for breaching this anonymity.

Jess Phillips: I rise to speak not with my own voice, but with those of my right hon. and learned Friend the Member for Camberwell and Peckham (Ms Harman) and the hon. Member for Wyre Forest (Mark Garnier). I am better at doing one of those voices than I am the other, but I shall try to do justice to both.

The short term for this subject—given that we are debating short titles—is the "rough sex defence". Other such terms are "Strangled to death in kinky sex romp," "Woman shot in the vagina in a sex game gone wrong," and, "Accused killed barmaid during kinky sex session." Over the last few years, any one of us might have seen this type of headline. They are salacious, tacky and often used as clickbait. We all know that sex sells, but these headlines trivialise what is actually occurring. Women are being murdered and the men who killed them are exploiting a loophole in the law. The "rough sex defence", as it has become known, is when a woman is killed in what the perpetrator defends as consensual violence. That means that, if your partner left you with 40 separate injuries, dreadful blunt force injuries to your head, a fractured eye socket and vaginal arterial bleeding, but explained that you had consented to such acts and that your death was simply a sex game gone wrong, there is a good chance that your murderer will end up with a lesser charge or a lighter sentence, or your death may not even be investigated.

The horrific injuries I just described were inflicted on Natalie Connolly. Her killer, John Broadhurst, left her to die at the bottom of the stairs, in a pool of her blood. She died of internal bleeding from 40 injuries that he inflicted on her body. He claimed that she insisted on rough sex, so it was her fault, not his. His lurid descriptions of what she insisted he do to her were unchallengeable. Not only did Mr Broadhurst kill Natalie, but he was able to entirely shape the narrative around her death, as she was not there to speak for herself.

That is why I support new clauses 10, 11 and 14. Currently, if a man assaults a woman during sex but falls short of killing her, she is in a much stronger position. She can tell the court that she did not consent, and the law gives her anonymity as a victim of a sex offence. The law bans him from using her previous sexual history in evidence of his defence, although that does not always work. But if he goes the whole way and kills her, she cannot give evidence, she has no anonymity, and his version of her previous sexual history is splashed all over the papers and compounds the grief of her relatives. This is a double injustice: not only does the man kill her, but he drags her name through the mud.

I cannot imagine the hurt and trauma of families who have already lost a daughter, sister, aunt or mother to have to hear the man who killed her describing luridly what he alleges about her sexual proclivities. Of course, she is not there to speak for herself; he kills her and then he defines her. We cannot allow that to continue to happen. We have the opportunity here to make these amendments, so that no victim is posthumously defined by their murderer.

Natalie's case rightly caused widespread outrage, as her killer escaped a murder charge and was convicted only of manslaughter. He was sentenced to just three and a half years. We cannot have violence against woman and girls continually undercharged. Three and a half years! It is unfathomable.

New clause 6 would require consent from the Director of Public Prosecutions to charge anything less than murder in a domestic homicide. The rough sex defence has proved to be a powerful argument in court and has led to prosecutors backing down from a murder charge in favour of manslaughter, believing that they will stand a better chance of securing a conviction. New clause 7 would require the Director of Public Prosecutions to consult the immediate family of the deceased before deciding whether to give such consent and to provide them with adequate legal advice so that they can understand the legal background. Natalie's grieving family said that they were not adequately supported in understanding why the charge was being dropped from murder to manslaughter, and what that would mean for the sentence.

We Can't Consent To This found 67 recent cases of people in the UK who were killed during so-called sex games gone wrong; 60 of them were female. Following the deaths of those 60 women and girls there were 37 murder convictions, but in three of those cases, the deaths were treated as non-suspicious results of sex games until other evidence emerged—respectively, a confession to a friend, dismemberment of two other women, and a further review by a pathologist. They were not investigated as murder or even violent acts until, in one of those instances, the perpetrator had dismembered two other women. Seventeen cases resulted in manslaughter charges, with sentences of three years and upwards; five were subject to no charge, or found not guilty; and one case has yet to come to trial. In nearly half the cases, a murder conviction was not secured.

In the past five years, 18 women and girls have been killed in claimed consensual violent sexual activity. In 10 cases, the man was convicted of their murder; in six cases, the conviction was for manslaughter, and in one, there was no conviction. In one further case, there was a murder conviction only when the victim's husband confessed to the crime; police had treated her violent death as non-suspicious. One woman's death has yet to come to court. No one can consent to his or her own death, and it is time this defence was made no longer available.

Fay Jones (Brecon and Radnorshire) (Con): The hon. Lady is making an extremely powerful speech. There are far too many cases to name them all, but I wanted to pay tribute to my colleague and hon. Friend the Member for Newbury (Laura Farris), who spoke so movingly about this issue on Second Reading when she mentioned the cases of Laura Huteson and Anna Banks. I feel that both their names ought to be on the record.

Jess Phillips: I could not agree more, and thank the hon. Lady for her intervention. Any opportunity to get women's names on the record, especially those who have died, is absolutely fine with me.

New clause 5 arises from similar considerations, stating that where serious harm has occurred during sex because of the behaviour of one person, consent does not exist. We Can't Consent To This found 115 cases of women who had been injured in non-fatal assaults that those accused said they had consented to. Examples of the non-fatal injuries that were claimed to be due to consensual sex include: being slashed in the back with a knife; two black eyes; being strangled; being punched in the stomach; being held against a wall and slashed with a knife,

causing permanent disfigurement; being electrocuted with mains electricity; and a woman being throttled with a shoelace by a man she had met for sex—in that case, the strangulation was so severe that some of her brain cells died when the blood flow was interrupted.

In one case brought to the attention of my right hon. and learned Friend the Member for Camberwell and Peckham this year by a solicitor, prosecutors declined to pursue charges against a man accused of sexual assault because of fears he would claim it was consensual sexual behaviour. In deciding not to proceed, the CPS prosecutor said in a letter to the complainant,

"A prosecution could follow in relation to this offence, but the courts have shown an interest in changing the law so that the suspect could say that you consented to these assaults. This would be difficult to disprove,"

for reasons set out earlier in the letter.

"If I prosecuted this offence it is likely to lead to lengthy legal proceedings in which the background to the case would have to be visited as far as the sexual practices that led to and accompanied the infliction of the injuries. In my opinion it is not in the public interest to pursue this charge"

in isolation.

We Can't Consent To This, the campaign group, has found evidence of 67 cases in the past 10 years. That defence should never have been open to those defendants.

10.45 am

Christine Jardine: It is a world of difference, but talking about this sort of consent, I find my mind is thrown back 20 or 30 years to the original arguments about rape and consent. Does the hon. Lady share my disappointment that we have not moved on?

Jess Phillips: I absolutely share the hon. Lady's frustrations. The truth of the matter is that we are talking about specific cases where this defence could easily be leaned on, and we are trying to shut those loopholes. There are only really three defences in a rape case. One is mistaken identity: it was not the accused, but someone completely different. Another is that it just did not happen, full stop—luckily, science has moved quicker than social science. The final one is that she or he consented. That is usually the one that is leaned on, because, unfortunately, it is much more difficult to prove than it is to rape.

Pre-existing case law, R *v.* Brown, makes it clear that a person cannot consent to injury or death during sex. However, in 45% of cases where a man kills a woman during sex and claims she consented to it, this defence works. We cannot let that continue.

If a man can convince police, prosecutors, coroners, a judge or even a jury that the woman was injured during a consensual act, he may see the following outcomes: he is believed; police do not investigate it as a crime or no charges are sought by prosecutors; prosecutors opt to pursue a manslaughter charge, ensuring a far shorter sentence than for a murder charge; mitigation in sentencing due to no intention to kill. Extreme sexual and sadistic violence is not treated as an aggravating factor in sentencing because it is accepted on his say so that she consented to it. All those outcomes are entirely acceptable today.

Peter Kyle: There are many aspects of the cases that my hon. Friend is outlining that are extraordinarily disturbing and painful to understand. There is another one: the impact on the victim's family. For them to sit there, coping with the death of their loved one, and then to hear that their loved one consented to these kinds of brutalising factors must cause pain beyond comprehension. Should we not remember the victims in all of this?

Jess Phillips: Absolutely. Even just from a personal perspective, the idea of my parents having to listen to conversations about me having sex at all is a harrowing thought, but we are talking about people who have lost their loved one having to listen to such things. The point about anonymity is made in rape cases, but there is no similar level of anonymity in this instance for a bereaved mother, father, brothers and sisters having to hear about vicious abuse, while somebody takes to the stand to say that the victim wanted it and loved it.

I have seen cases that would make most people's toes curl, but I have to say that I have been deeply affected by this case. I have become a bit of an old hand at some things, but the Connolly case is so harrowing that I cannot imagine how her family have coped with it.

The law should be clear to all: a person cannot consent to serious injury or death. But the case law is not up to the task. When a woman is dead, she cannot speak for herself. Any man charged with killing a woman, or a current or former partner, should simply say, "She wanted it." This is why we must change the law and urge the Government to accept these amendments.

Peter Kyle: I rise to say a few words about new clause 14. It seeks to grant anonymity in the press to survivors of domestic abuse, should they request it. In recent days, the front page of one of our national newspapers covered an instance of domestic abuse in really quite grim terms. It failed to point out the consequences of it, and did not report any remorse whatsoever. That kind of most insensitive reporting still makes its way on to the front page of papers.

We know the counter-case, too. In the wake of the Leveson inquiry, we know that these issues are sensitive. We must be fully aware of the need for the press to do their job in as unencumbered a way as possible. The Independent Press Standards Organisation, the largest independent regulator of the newspaper and magazine industry in the UK, has no guidance whatever for journalists on how to report domestic abuse cases. There is only a short blog, which suggests that journalists heed to how domestic abuse charities would like cases reported locally. The industry has acknowledged the issues relating to the reporting of domestic abuse, but no action whatever has been taken.

It is clear that the Government and Parliament need to speak, and we need to guide the industry through legislation. The issue has become so pronounced because stories are published in which victims and survivors of domestic abuse are named, as well as family members and children. When these stories make their way on to websites, which is where the majority of people read news these days, victims have no anonymity. Underneath the story, there is a plethora of people discussing and naming people, saying, "I heard this", or "I heard that she was that"; the irony is that they are all anonymous. They are benefiting from an anonymity that the victims do not have. These issues are cast in a new light in the modern era, whereas regulations are distinctly old-fashioned.

[Peter Kyle]

Journalists are struggling on how to deal with the issue. I recognise that, and have spoken to many of them. It is not wholly the responsibility of the press, because when it comes to other crimes and their survivors, it is set out in law how journalists are to respond. The keystone piece of legislation providing anonymity is the Sexual Offences (Amendment) Act 1992, which gives survivors of sexual assault the right to press anonymity, and lays out the circumstances in which that right can be waived.

The Government have already shown support for the spirit of the new clause in legislation for survivors of other crimes such as the Serious Crimes Act 2015, which grants anonymity to and protection for alleged victims of female genital mutilation. In section 2 of the Modern Slavery Act 2015, victims of any human trafficking offence are granted anonymity. The Government are willing to grant anonymity to certain types of people, and it is striking that a person has the right to anonymity if they are the victim of sexual violence, but not if that sexual violence occurs within a relationship and in a home. These proceedings cast that anonymity in a new light. The new clause would provide similar restrictions on how the press could report on survivors of domestic abuse, so that it would not be left to individual publications to make that decision. In today's hyper-competitive media world, where there are shrinking readerships and a move to online news, the issue is more important than ever.

The domestic abuse charity RISE in my constituency has been vocal about the need for this change. It reports that if the survivors they care for are named in the press, they are less likely to report domestic abuse in the first place. One service user provided testimony about the impact on their life of being named in the press:

"My daughter had to be informed by the school after the article named me as all the parents at school were aware, as well as the children because it was all over social media. It made me feel that I was still being controlled, I felt vulnerable and exposed. I feel so much hurt for my little girl, she didn't need to know, the impact on her is huge, she is hypervigilant and gets very scared on the bus if someone is on their phone as she believes they are filming her. I never want another child to go through what my child went through."

Another said:

"None of my family knew, neither did my employer. I felt a lot of shame and then seeing my name in the article and the awful comments made below the article were dreadful, there was racial abuse online. I felt sad, ashamed, embarrassed and violated. Something that took a lot of courage for me to report and everyone got to know about it. Even now I find myself googling my name for fear of it popping up again. There is an added layer of shame when I already had enough to process with regard to being abused."

The Government have shown, through the development and scrutiny of the Bill, that they want it to stand the test of time. I believe that, as we move forward, the press becomes more competitive; there are more online opportunities to name and discuss people, and to tread over the line—particularly when someone in the public eye is subject to domestic abuse and the opportunity for media to make money from using that name becomes overwhelming. Some journalists might feel some shame about it, but for some it might be a choice between making money or income, and protecting a victim. I do not think that individual journalists should be put in that position.

We have an opportunity now to equalise the law and extend the protection of the anonymity given in cases of violent sexual crimes that occur outside the home, so that it is also given when crimes occur inside the home.

Alex Davies-Jones: Diolch, Ms Buck. I will be brief. I do not want to repeat the powerful words of my hon. Friend the Member for Birmingham, Yardley, but it is important to make the point that previous sexual behaviour is not, and should never be, taken as evidence of consent to a particular encounter. Neither should experience of or interest in any particular act be used to suggest that it is possible for someone to consent to their own murder, as has been the case in the past.

My hon. Friend the Member for Hove said that the media are complicit in sexualising and sensationalising horrific acts of violence and causing huge further trauma to the families of victims. Those victims—mainly women—and their families need anonymity.

A BBC study in 2019 found that more than a third of UK women under the age of 40 had experienced unwanted slapping, choking or gagging during consensual sex. Of the women who experienced those acts, 20% said they had been left upset or frightened. It is vital that women's voices should no longer be silenced.

The Parliamentary Under-Secretary of State for Justice (Alex Chalk): It is once again a pleasure to serve under your chairmanship, Ms Buck. I thank colleagues for those helpful and powerful contributions. I want to begin my remarks by echoing a point that was made: we should not be shy in this place about making observations that are sometimes uncomfortable.

It seems to me a fact that there is a worrying and increasing normalisation of acts that are not just degrading but dangerous. Because we live in a liberal, open, tolerant society we of course do not want to step into the bedroom. We do not want to intrude into people's private affairs, but when what they do leads to someone's death we should not have any compunction about taking the steps necessary, first to ensure that people are safe, secondly to ensure that justice is done, and thirdly to send a message: if someone wants to behave in that way, when the consequences come to pass, on their head be it.

I am grateful to the Opposition Front-Bench spokespersons for making the case for the new clauses. Before addressing those in detail, I pay tribute, as others have, to my hon. Friend the Member for Wyre Forest, who is the constituency MP of Natalie Connolly and her family, and to the right hon. and learned Member for Camberwell and Peckham. They have run a formidable campaign and have engaged closely and constructively with the Government. I pay tribute to them for that.

11 am

My fellow Minister, my hon. Friend the Member for Louth and Horncastle, has temporarily departed, but I also pay tribute to her. She has met the family of Natalie Connolly and taken a close personal interest. She really recognises the seriousness of the issue, which all of us feel.

Before going into the detail of new clauses 4 and 5, let me say this: it is unconscionable for defendants to suggest that the death of a woman—it is almost invariably

a woman—is justified, excusable or legally defensible simply because that woman consented in the violent and harmful sexual activity that resulted in her death. That is unconscionable, and the Government are committed to making that crystal clear.

A note of caution: as the Secretary of State for Justice said on Second Reading, this is a complex area of law. The law of homicide is of labyrinthine complexity, so there is a need to ensure that any statutory provisions have the desired effect—an effect that I do not think is controversial—and that they do not lead to any unintended consequences. We need to ensure that any change does not inadvertently, although with the best of intentions, create loopholes or uncertainties in the law that may be exploited by unscrupulous individuals who seek to carry out the type of crimes that we are talking about.

I will develop those observations by reference to the wording of the proposed new clause. As I and others have discussed with my hon. Friend the Member for Wyre Forest and the right hon. and learned Member for Camberwell and Peckham, new clauses 4 and 5, while on the right lines, might not have the effect that they seek.

Take a moment to look at new clause 4, which is headed "No defence for consent to death". The words that I would stress in proposed new subsection (1) are

"to whom they are personally connected as defined in section 2".

Clause 2 defines "personally connected" as "two people" who

"are, or have been, married to each other…are, or have been, civil partners…have agreed to marry one another (whether or not the agreement has been terminated)…have entered into a civil partnership agreement…are, or have been, in an intimate personal relationship"—

I stress "relationship"—

"have, or there has been a time when they each have had, a parental relationship",

or "they are relatives".

Hon. Members will immediately spot the potential issue. What if people have not been in a relationship as defined in what will become section 2? One incident involved a British national in another jurisdiction, so I am necessarily cautious about referring too much to it, but what if someone is a Tinder date, for want of a better expression?

Peter Kyle: The Minister is making a good point. As he knows, the opportunity to amend legislation does not come up often, and we often do not get the chance to amend the perfect piece of legislation. Using all his wit, experience and erudition, he is able to find the failings in the new clause, but a principle is at stake. If he is saying that this is not the ideal piece of legislation or method to achieve those aims, will he spend a bit of time telling us what is, whether he will back it and whether he will make it happen swiftly?

Alex Chalk: I invite the hon. Gentleman to listen carefully to what I say in due course, and I hope that he will not be unhappy—

Peter Kyle: Disappointed.

Alex Chalk: Disappointed—thank you. Do you want to make the speech?

The concern with the new clauses, among other things, is that they do not necessarily replicate the dictum in Brown. To those who are not familiar with this, a case more than 20 years ago, Crown *v*. Brown, laid down some case law—a point adverted to by the hon. Member for Birmingham, Yardley—that we recognise needs to be clarified. The point that I will develop in due course, which I think will find favour with the hon. Member for Hove, is that that is precisely what we intend to do. The concern is that these new clauses, for the reasons I have indicated—I will not go into any detail on new clause 5, because it is a similar point that I would seek to make—limit the application of the principles in Brown to offences that occur in a domestic abuse situation. I heard the hon. Member for Birmingham, Yardley say sotto voce, "Isn't a Tinder date an intimate personal relationship?". The reality is—I speak as someone who has defended as well as prosecuted—that the job of a defence advocate is to find whatever wiggle room there is in the law. Our job here is to close that down.

As I have indicated, the prosecution would have to show also that this activity was either not consensual, or was consensual and also amounted to domestic abuse. Again, defence counsel will be seeking to ask, "Is this really domestic abuse in circumstances where it is consensual?". You can immediately see the arguments that would be made in court. The key is for us to close that down and give practitioners—but, more importantly, people—absolute clarity about what is and what is not acceptable. As I said at the outset, we need to ensure that any change made is clear, and does not inadvertently create loopholes or uncertainties in the law.

I invite the hon. Member for Hove to accept that despite the difficulties, we have been anxiously and actively considering for some considerable time how we can best ensure greater clarity in the law. We aim to set out the Government's approach in time for Report.

Peter Kyle: On behalf of the Opposition Front Bench, I thank the Minister for his comments and the considered way he made them. We particularly thank him for the timeframe he outlined. Making a statement before Report is incredibly important; we need to move swiftly. The Minister knows better than anyone that if the same thing happened to one other person in the coming weeks, it would be an absolute travesty, so we need to make sure that these loopholes are dealt with quickly.

Alex Chalk: I hear what the hon. Gentleman has said, and I leave it where it stands. I understand and I agree. I turn to new clauses 6 and 7. Those who have argued passionately in respect of the so-called rough sex defence will acknowledge that perhaps this point is contingent on that. There are also real practical difficulties with new clauses 6 and 7. Let me develop them briefly.

New clause 6 requires the personal consent of the personal Director of Public Prosecutions where a charge or plea less than murder, for example manslaughter, is applied or accepted in cases of domestic homicide. That sounds unobjectionable. It would be perfectly sensible if the DPP was readily able or had the capacity to give that kind of personal consent. However, there are practical problems with it. Let me set out the context. A statutory requirement of this nature is, and should be, extremely rare. It should only be imposed where a prosecution touches on sensitive issues of public policy, not simply sensitive issues, which are legion in the criminal justice system. The only recent example of this consent function applies to offences under the Bribery Act 2010, and last

[Alex Chalk]

year, a Select Committee undertaking post-legislative review of the 2010 Act recommended that the requirement for personal DPP consent be reconsidered.

We have to acknowledge that the Crown Prosecution Service handles a high volume of serious and complex casework nationwide, and it is important that prosecutors have the confidence to take their own legal decisions. Introducing requirements for personal DPP consent could serve to undermine or frustrate this approach. It would also, I am bound to say, potentially sit uneasily alongside other very difficult decisions that prosecutors have to make. Suppose, for example, in the context of a terrorist prosecution, that because of the way the evidence emerged, or because of new lines of enquiry, a decision was made to take the defendant off the indictment in respect of a bomb plot, but the prosecution said, "We are going to continue to prosecute him in respect of possession of materials that might be of assistance to a person planning an act of terrorism." These are immensely difficult and sensitive decisions. However, there is neither the capacity nor the wherewithal for the DPP to make those personal decisions all the time.

It is sad to note that there is a high volume of cases involving domestic homicide, as the hon. Member for Birmingham, Yardley well understands. It means that charging decisions need to be made urgently, and sometimes at a speed, where no personal DPP involvement is possible.

These considerations apply equally to cases in which a lesser plea may be accepted. If pleas are offered in court, prosecutors are required to make a decision in an incredibly short period of time after speaking with the victim's family, and the DPP could not be involved in that level of decision making. I invite the Committee to consider the circumstances, supposing it is in court: because of the way that the evidence has come out, there is the consideration of whether a lesser plea should be accepted. The hon. Lady pointed out that this does not always happen, but if the family have been properly consulted, it is no kindness to that family to say, 'Do you know what? We're not going to make a decision on this, which would let you begin to heal and put this behind you. We're going to put this off for two or three weeks while the DPP has to consider it.' Court proceedings will be suspended awkwardly, and the poor family will be left hanging.

Forgive me for stating the obvious, but it bears emphasising that the real remedy is for good prosecutors—the overwhelming majority are good and do their duty with diligence, conspicuous ability and conscientiousness—to liaise with the family in a compassionate and inclusive way. I understand the desire for additional scrutiny in such significant and sensitive cases, but I assure the Committee that the Crown Prosecution Service already has systems in place to check and challenge decision making in these circumstances. Internal CPS policies require that chief crown prosecutors are notified of any and all homicide cases. It is likely as well that domestic homicides would be subject to a case management panel with a lead lawyer and either the deputy chief crown prosecutor or the chief crown prosecutor, so there is senior oversight.

The point that I really want to underscore is that because cases of domestic homicide inevitably have a lasting and dreadful impact on victims' families, people deserve support and compassion, particularly as criminal proceedings can be upsetting and difficult to follow. Procedures are in place to ensure that is given. Where there is an allegation of murder, the police very often appoint a family liaison officer as a matter of course to assist with the process. I speak as someone who has prosecuted several murder cases. The role that liaison officers play is absolutely fantastic. Otherwise, the poor family turn up in court with no idea what an indictment is, wondering "What on earth is this examination-in-chief stuff? What is this plea and trial preparation hearing?". The liaison officer role is invaluable, and needs to be supported by prosecutors speaking to family members, as they increasingly do.

Jess Phillips: Like the hon. Gentleman, I have been involved in a number of murder cases, and he is right that family liaison officers are worth their weight in gold. Does he think that there needs to be a more formalised link between the prosecutor and the family liaison officer—a referral pathway, or standard of practice that had to be met in each case? It could help us work towards having a less patchy approach if we had a formalised target.

Alex Chalk: There are, in fact, formal arrangements in both spheres. Family liaison officers have to operate within certain guidance, and in my experience, by and large, they do so extremely well. At the risk of stating the obvious, it comes down to the calibre, kindness and empathy of the individual. In my experience, they are very good at their job and play an invaluable role.

As for the prosecution, as little as 20 years ago, there used to be almost a benign disdain for witnesses. Prosecutors simply did not engage with them. That does not happen now; they meet witnesses and family members before the trial begins. Very often, they will speak to them at the end of the day to explain what has happened. The relationship between prosecutors and family liaison officers tends to dovetail extremely effectively. I do not think that there is a need for further guidance. The key is to ensure that both parts of the criminal justice system—the police and the prosecution—do their job. In my experience, people are increasingly extremely conscientious in that regard. That is important, because people's sense of whether they have got justice will often depend on the conversations they have at the end of the day, when the matter has been explained to them.

11.15 am

Let me speak a little about new clause 6, which concerns the consent of the Director of Public Prosecutions at the time of charge. I invite the Committee to consider that there are practical considerations here. If somebody is arrested and brought into custody, they can initially be there only for 24 hours. The superintendent can extend that to 36 hours, or up to a maximum of 72 hours if a magistrates court provides permission. During that time, the police will be gathering evidence, taking witness statements, looking at CCTV, getting forensic evidence and toxicology reports, and so on. They need to move fast and to be in a position to make those difficult charging decisions with the CPS.

Consultation will be difficult in these circumstances in any event. It would not be possible for the CPS to discuss details of evidence in this case, as that could prejudice criminal proceedings. There would be

an unfortunate situation with the DPP—who, first, has not got the time, and secondly, would not be able to sit down with the family and say, "This is why we are making this charging decision," because they would not be able to reveal the evidence. That does not mean that bereaved people do not deserve the support of the CPS; they do, but it has to be given in a way that is practical. I could say more, but have probably made my point.

I turn to new clause 10. That is another clause in the armoury of provisions intended to prevent defendants from arguing that victims consented to the act that led to their death. Again, hon. Members may feel that this was a powerfully presented argument, which is also contingent on the issue of rough sex. The argument is that defendants will not be making these submissions if it avails them naught to suggest that the victim consented. It would not really be in their interests to start making all these salacious, damaging and upsetting remarks; it would not advance their defence. I have two observations to make. First, new clause 10 is not limited to cases where the defendant seeks to show that the victim consented; consent is not mentioned in new clause 10. Secondly, unlike section 41 of the Youth Justice and Criminal Evidence Act 1999, which permits the court to control when evidence on previous sexual history can be introduced, this provision prohibits doing that absolutely. It does so whether or not the reason for adducing such evidence is connected with the issue of consent, and prohibits evidence as to sexual history, even where that might potentially be relevant.

New clauses 11 and 14 relate to reporting restrictions. New clause 11 makes provision for reporting restrictions, preventing the naming of the deceased victim. That is based on the sort of protection that has long been given to complainants in crimes of sexual violence. It is often referred to as "anonymity", which is slightly misleading, as the complainant will be referred to by name in court. I have the greatest sympathy for the bereaved families of murder victims, where the reputation of the person they have lost is besmirched or traduced by the defendant. I have made the point already that, if we are able to do something in respect of the principal issue, the scope for that is reduced. However, we must also recognise that there are difficulties in defining the point at which the protection applies and how long it should last. Another potential weakness is that the victim may well have been identified before any question of imposing reporting restrictions arises. Therefore any restriction might in reality be presentational. If, for example, the name has emerged because someone said it in an interview, it may not have the desired impact. That is something we will consider.

New clause 14 treats living complainants in domestic abuse cases in the same way as complainants in sexual cases, applying automatic reporting restrictions from the time when the allegation is made. That is the point that the hon. Member for Hove spoke to. We need to pause for breath here a little. Automatic restrictions such as these are an exceptional interference with open justice. Sometimes, exceptional interferences are necessary. However, the hon. Gentleman mentioned that there are principles of open justice, and he was right to do so. They exist because, if we take this too far and the press are unable to report on what happens in court, that creates real concerns. We would soon find that there was a campaign for open justice, with people saying, "Why have we got secret courts? Why have we got secret justice?"

Also, we do not make these arguments entirely in a vacuum, because of course we exist within the European convention on human rights, which we are committed to remaining a member of, and being within the convention means that we sometimes have to balance rights. One of the rights that we have to balance is freedom of speech under article 10, but we also have to balance the right to privacy and a family life, under article 8. Those are not absolute rights; they have to be balanced. And that is something we have to weigh in the judgment as well.

Peter Kyle: I have never heard a journalist wanting the rule that prevents reporting from naming victims of sexual violence overturned. Has the Minister?

Alex Chalk: What I can say, from my experience in court, is that it is not unusual for the press to seek to overturn reporting restrictions where they are imposed at the discretion of the court, so although the hon. Gentleman may be right that in fact there is not a particular drumbeat in respect of sexual offences, I hope that the Committee will not be gulled into thinking that the press do not very often seek to overturn reporting restrictions that are imposed. The arguments that are made are, "Why should we be having secret justice?", and so on. Those arguments are very often dispatched by the court; they are considered not to be valid, and then they are sometimes taken on appeal and so on. The only point that I am seeking to make is that we must be careful in this area and strike a balance, so that we do not find ourselves bringing the law into disrepute.

Christine Jardine: As a journalist and as someone who has taught law for journalists, I point out that although we might challenge discretionary interdicts and super-interdicts—I cannot remember what they are called in England—the principle of defending the anonymity of victims of sexual assault, sexual crimes, is never challenged in court. The only challenge is to discretionary non-identification where a public interest case can be made for that being overthrown. I find it difficult to believe that the press would actually want victims of domestic abuse named in the papers, unless there was some outlandish public interest.

Alex Chalk: The hon. Lady is absolutely right that of course it is not open to a journalist to seek to displace the reporting restrictions that have been imposed by force of statute. I was seeking to make the point, which I do not think she disagrees with, that it is not uncommon for the press to suggest that a court, in imposing reporting restrictions in an individual case, has overreached itself, gone beyond the bounds, and misapplied the balance. Sometimes, by the way, those applications are upheld at first instance or on appeal.

There is a judgment to make, and we have to recognise that there is a particular public interest, when the allegation is of sexual violence, in taking the step of exceptional interference. That justification exists in relation to sexual offences. However, we have to take great care before extending it further, not least because—of course, domestic violence and domestic abuse are incredibly serious, for all the reasons that we have expressed—women, and it is usually women, can be victims of all sorts of other

[Alex Chalk]

offences. Then it becomes a question of how far we go—where do we draw the line? That is something that requires careful thought.

I apologise to members of the Committee for taking so long to explain the Government's position on the new clauses. As I have sought to explain, we fully understand the anguish and hurt felt by the family of Natalie Connolly and many others, and, as lawmakers, we will and should do what we can to minimise such anguish on the part of bereaved families in the future. For the reasons that I have set out, the Government cannot support a number of the new clauses, but as I have indicated before, we expect to set out the Government's approach in respect of the rough sex issue in time for Report. In those circumstances, I respectfully invite the hon. Member for Birmingham, Yardley to withdraw the new clause.

Jess Phillips: I will withdraw the new clause. I am very pleased to hear that there is an intention to deal with the matter on Report, and I speak entirely for the hon. Member for Wyre Forest and my right hon. and learned Friend the Member for Camberwell and Peckham in that regard. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.