PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

DOMESTIC ABUSE BILL

Eleventh Sitting

Wednesday 17 June 2020

(Morning)

CONTENTS

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

not later than

Sunday 21 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

Wednesday 17 June 2020

(Morning)

[Mr Peter Bone *in the Chair*]

Domestic Abuse Bill

9.25 am

The Chair: I remind everyone about social distancing, which is very important. If anyone is unhappy with the social distancing in the room, please let me know and we will try to do something about it. It would help *Hansard* enormously if we could email copies of notes or speeches to hansardnotes@parliament.uk.

New Clause 25

Repeal of provisions about defence for controlling or coercive behaviour offence

"In section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship), omit subsections (8) to (10) (which make provision for a defence in proceedings for an offence under that section).".—*(Peter Kyle.)*

This new clause seeks to repeal the 'carers' defence' for the offence of controlling or coercive behaviour in intimate or family relationships.

Brought up, and read the First time.

Peter Kyle (Hove) (Lab): I beg to move, That the clause be read a Second time.

It is great to serve under your chairmanship again, Mr Bone—welcome back to the Committee. I rise to speak to new clause 25, on the repeal of provisions about defence for controlling or coercive behaviour offence.

Domestic abuse against disabled people is simply not discussed enough. They are hidden victims. When abuse against disabled people is raised, it is usually in the context of adult safeguarding processes, which labels disabled people as vulnerable adults and which disabled survivors and specialists in the field tell us is failing them.

The new clause reflects 10 years' worth of casework by Stay Safe East, one of only two organisations in England and Wales led by disabled women supporting disabled survivors, and its partner organisations, in an advisory group on domestic abuse and disability. That is two specialist disability and deaf services for a disabled population of 10 million people.

The data on abuse against disabled people is grim. Disabled adults are at least 1.5 times more likely to be a victim or survivor of violence than non-disabled adults. Disabled women are at least three times more likely to experience domestic abuse from family members, be that their partner, parents, siblings, adult children or other family members. Some of the abusers will also be the person's carer. It is highly likely that those figures are an underestimate, as the only example—the crime survey—is not in an accessible format for deaf and disabled people to participate in, and many survivors cannot access external help.

The rate of domestic abuse against disabled men is also higher than against non-disabled men, but disabled women are more likely to experience repeated, sustained and more violent abuse than disabled men. Disabled children, and particularly disabled girl children, are more likely to experience sexual violence and physical abuse than non-disabled children. What is more, disabled people may have other people in their lives who have a level of control, whether that is unpaid carers or paid carers from an agency, or a personal assistant.

This is the case for disabled women across all communities, of all ages and all backgrounds. Disabled women face specific forms of abuse at the hands of partners, family members and paid or unpaid carers: control of communication; control of medication; restricting access to disability support; using a person's impairment to control them—for example, playing on their mental health or taking advantage of the fact that they have learning disabilities—forced marriage on the grounds that the partner "will look after you when I am gone"; and constantly abusing women because of their impairment. That, in itself, is a form of hate crime.

Abusers hold the very real threat that, "They will take your kids away from you" over a disabled woman. In the experience of both Stay Safe East and SignHealth, a deaf-led service for deaf survivors of domestic abuse, deaf or disabled mothers are at much higher risk of losing their children through the courts or other domestic abuse. In some cases, the courts opt to place children in the care of an abusive father rather than letting them live with a disabled mother, who is considered a poor parent for reasons simply of her disability, and providing support to keep the children with her.

Unfortunately, disabled victims who are able to speak out against this face multiple barriers to gaining safety and justice. Poor access to refuges or emergency accommodation; voice phone-only contact with many services, which excludes deaf women and those without speech; services not set up to deal with victims who need long-term support; a lack of quality, accessible information or British Sign Language interpreters; no access to counselling—the list is very, very long.

Worst of all is not being believed by police, social workers or health workers because they are disabled women, which is something that is frequently reported by deaf and disabled women who approach the two specialist organisations. A little-known clause, now subsections 76(8) and (9) of the Serious Crime Act 2015, introduced what has been dubbed "the carers' defence" by disabled survivor groups. It introduced a worrying caveat into what was a piece of legislation to protect victims of abuse, by allowing an abuser who is facing charges of coercive control to claim that they were acting in the best interests of the victim.

That provision was originally brought to the attention of legislators through the efforts of Sisters of Frida, a disabled women's collective, and Stay Safe East, but it became part of the 2015 Act. Although the clause may have been introduced with the best of intentions, to avoid unnecessary prosecution of carers who were, for example, preventing somebody with dementia from going out alone because they were at risk, there is a real risk that it could be used by abusers to claim that they are acting in the best interests of somebody they are controlling with malicious intent.

That is especially true of people who might be seen to have capacity issues, such as deaf people, people without speech, people with cognitive issues as a result of a stroke, people with learning difficulties and people with

mental health challenges. That, of course, is a substantial number of potential victims among those who face the greatest barriers to safety and getting justice.

For example, the parents of a young woman with mild learning disabilities stopped her going out alone, only letting her go to college with a chaperone, on the grounds that she was at risk from strange men. The parents had failed to teach their daughter about safe relationships, had removed her from personal, social, health and economic education lessons in school, and had controlled her friendships with her peer group. The family claimed that they were protecting her. The young woman initially believed that her parents were doing their best for her, but as she grew up she came to realise that she could make her own decisions. It subsequently emerged that, on top of all the coercive control, the family were taking the young woman's benefits, and there was also physical abuse.

The section gives a clear message to disabled survivors and victims generally: "Your decisions are not your own, and abusers can claim to be acting in your best interests." "For her own good" is an expression we often hear abusers using, even if they are abusing that very interest, and the courts will let them get away with exercising abuse of power over their victims.

In a context where disabled survivors are the least likely to speak out, and where, if a case does go to court, the chance of a successful outcome for the victim is very low, especially for disabled victims, that is not the message that we want legislation on domestic abuse to give to survivors or, for that matter, the police, the Crown Prosecution Service or abusers. The Care Act 2014 and the Mental Capacity Act 2005 both provide sufficient protection for genuine carers who face malicious allegations. A law to protect victims is not the place for a clause that protects potential abusers.

All too often, concerns about disabled victims are ignored. The Government now have a real opportunity to listen, and we urge the Minister to take full advantage of that opportunity. We are talking about a group with many intersectional and very complex challenges, which provide additional areas for abusers to exert control and abuse.

The Parliamentary Under-Secretary of State for Justice (Alex Chalk): This is the first of two debates on different aspects of the controlling or coercive behaviour offence in section 76 of the Serious Crime Act 2015. As the hon. Member for Hove has indicated, new clause 25 seeks to repeal the defence in section 76(8), which has been labelled by some as the "carers' defence".

Currently, the coercive or controlling behaviour offence allows for such a limited defence if the accused believes that they were acting in the best interests of the victim. It is important to note that the accused would also need to demonstrate to the court that in all the circumstances of the case their behaviour, while apparently controlling, was reasonable. This defence is intended to cover cases, for instance, in which the accused was the carer for a disabled spouse, and for medical reasons had to compel their partner to take medication or to stay at home for their own protection.

It is worth taking a moment to consider the sorts of circumstances in which that defence might apply. Imagine a situation in which neighbours walk past a home and see someone who wants to get out of the front garden and on to the road, and is in some distress at not being able to do so. That neighbour calls the police, and the police then investigate. It emerges that the person trying to get on to the road is, very sadly, suffering from dementia, and their partner is a person of unimpeachable integrity and good character—a decent, loving partner of many years' standing who has shown nothing but care and compassion for that individual, but who is concerned that if they get out on to the road, they will be a danger to themselves and others. Is it seriously to be suggested that that person should be at risk of conviction, punishment and disgrace?

Jess Phillips (Birmingham, Yardley) (Lab): That is not what has been outlined. It has already been clearly stated that provisions in the Mental Capacity Act 2005 would allow for that exact defence. Also, can the Minister not imagine a situation in which if a victim in that exact circumstance says she is a victim of domestic abuse, that might be the case?

Alex Chalk: Of course it might be the case, but the important thing is that this defence allows a proper opportunity for a tribunal of fact to consider that, and I think it is absolutely right that it should do so. It is worth noting that under section 76 the burden is on the individual to advance that defence, and for a tribunal of fact to then consider whether it has been disproved. In other words, if that individual advances something that is utterly implausible, a jury—or indeed a bench of magistrates—would have little difficulty in exposing it as such.

Peter Kyle: It is important to note that we are leaping straight from a hypothetical, in which a woman with dementia is trying to climb over a fence, to court. However, between those two stages we have the first responders. Having experienced the training, care, compassion and expertise of the frontline responders in the prevention team of Sussex police, I would find it extraordinary if a frontline responder could not tell the difference between these scenarios, or certainly determine whether there is enough evidence to pursue the kind of prosecution that the Minister is describing.

Alex Chalk: We have to be very clear about this. If an individual does not have that defence, considering the elements of section 76, we would be left with a person who is apparently being caused some distress—as would be evident to the first responder, or indeed to a police officer, who might have to effect an arrest—and the distress would appear to have been caused by that person's liberty having been restricted. In those circumstances, unless the individual has the defence that they were exercising proper control in the interests of the other person, they are at risk of being arrested and prosecuted. That would be a serious concern, would it not?

I should also add—I do not think this point is controversial—that there is an exemption within section 76 concerning under-16s. In other words, where people are in a position of responsibility for somebody who is under the age of 16 and may have to inhibit that person's liberty, that is considered perfectly understandable and justified. The argument would therefore be this:

[Alex Chalk]

why is it that in circumstances where, sadly, an individual is at risk and vulnerable, it should not be open to that carer—who everyone accepts is loving, decent and caring—to say that this was in the interests of the individual?

I accept the hon. Gentleman's premise that it is possible that some people would seek to advance an unmeritorious defence. That is absolutely right, but I respectfully say to him that when he says, "The courts let them get away with it," he is unfairly labelling the courts. In my opinion, the courts have shown themselves well able to see through a spurious defence. The carer who seeks to try it on and to abuse this proper defence will be given short shrift by a bench of magistrates, or indeed by a jury. We should trust juries and courts to do justice in each case.

Jess Phillips: Why does the Minister not think that the courts and juries can be trusted on the rough sex defence?

Alex Chalk: Because juries have to have a rough sex defence to consider. That is our job. Our job is to create the statute.

Jess Phillips: It is the same.

Alex Chalk: No, it is not the same at all. If the hon. Lady will listen for a moment, the point is that there is, on the face of a statute, a defence that the jury can consider. They get to consider it only if a judge is satisfied that there is a prima facie defence—in other words, if what the defendant is advancing is patently and transparently unmeritorious, it may well not even go to a jury. A judge might say, "This is such a load of old nonsense that it doesn't even cross the threshold for a jury to decide." It is simply where there is a prima facie case. We should trust juries to say, "Is there something in that, or is there not?" It is not for us to adjudicate in every single case. Trust juries; trust the people. It is different from the point that the hon. Lady was making about rough sex, because there was a lacuna in the law. Our job is to fill the lacuna and then leave it to juries, who have shown for many centuries that they are well placed to do justice in a specific case.

I will make a final point on this issue, because I do not want to dwell too long on it. If the policy were not in place, there is a danger that the same people that the hon. Member for Hove quite properly wants to stand up for, and who we want to stand up for—namely, people with disabilities—could be disadvantaged if people take the view of, "Hold on a moment. By doing what I think is genuinely and objectively in the best interests of an individual, I am at risk of conviction, punishment and disgrace. Do you know what? Why on earth should I be doing that? Why should I be putting myself at risk in that way." We have to ensure that we do not inadvertently, and despite the best intentions, find ourselves making life more difficult for the people we want to support.

Peter Kyle: The Minister is a very effective advocate, but the bottom line is that all the agencies representing frontline victims and survivors are speaking with unanimity. They want the law changed and the new clause struck off, because they say it is affecting their service users. There is no organisation out there working with service users that is defending the clause; it is only him.

Alex Chalk: With respect, that is not a fair characterisation. Parliament had the opportunity to consider the Bill in 2015. It went through Committee stage in this House, and it went through the House of Lords. It was Parliament's will that it should exist. What is now being suggested, less than five years later, is that we should sweep away something that was there in the past. In my respectful submission, the case for that has not been made.

Of course, all matters are considered with care, particularly matters of this kind of sensitivity, but we have to be alive to the fact that sometimes, if we remove such a defence, we risk making the position far worse for the people we want to protect. We see that time and again when people are concerned that if they are not given the opportunity to advance their defence and simply to say, "Listen, you decide whether I have got this wrong." If they do not have the option at least to put forward their defence so that 12 people who have no prior knowledge can make a fair decision, it would be unfair on them and would risk unfairness to people with disabilities.

The final point that I want to make is that the equivalent domestic abuse offence in Scotland contains a similar defence, under section 6 of the Domestic Abuse (Scotland) Act 2018, as does the proposed new domestic abuse offence in Northern Ireland, which is clause 12 of the Domestic Abuse and Family Proceedings Bill, currently before the Northern Ireland Assembly. This is not an outlier provision, I respectfully submit.

Notwithstanding the very proper concerns expressed by the hon. Gentleman, I invite him to consider that, set in a wider context, seeking to exclude the provision is not necessary. In the light of my explanation, I invite him to withdraw the new clause.

9.45 am

Peter Kyle: With your permission, Mr Bone, may I speak without a jacket on in this stuffy weather? I do not want to offend your sensibilities.

The Chair: I have not been able to stop you so far.

Peter Kyle: Thank you, Mr Bone.

We need to make progress today, and we have a lot to get through. I will withdraw the new clause, in the clear hope that, as the Bill progresses through Parliament and goes to the House of Lords, they may have more time to spend on such matters. They might be able to have more consideration and ventilation of the debate, which we were too speedy on today. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 28

CONTROLLING OR COERCIVE BEHAVIOUR OFFENCE

"(1) In Part 5 (protection of children and others) of the Serious Crime Act 2015, section 76 (controlling or coercive behaviour in an intimate or family relationship) is amended as follows.

(2) For subsection (2) substitute—

'(2) "Personally connected" has the meaning set out in section 2 of the Domestic Abuse Act 2020.'

(3) Omit subsections (6) and (7).”—*(Jess Phillips.)*

This new clause would ensure that those who were previously personally connected are protected from coercive and controlling behaviour (including economic abuse) that occurs post-separation.

Brought up, and read the First time.

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

I also do not have a jacket on, but I am not compelled to wear one—I think the only uptick of being a woman in this place is that we can wear whatever we want; it is one of the benefits. I also have trainers on.

The Chair: So do I.

Jess Phillips: I will discuss some of the potential foibles of the 2015 Act, which we have already mentioned. I say graciously before I start that Parliament does not always get everything right, and I loathe the culture in which we have to call something a U-turn, when actually evidence and other things change, different things come to light and people change their minds. That is okay, but we are not allowed to do that in politics without it being labelled a certain thing. I totally support the legislation but, specifically in the coercive control measures, there are some errors. In reality, only time and test ever measure these things.

In discussing the new clause, I will focus on post-separation abuse, but I will first talk briefly about economic abuse by way of context, as they are closely linked in this instance. I welcome the inclusion of economic abuse in the definition of domestic abuse in the Bill, recognising how that is often hidden but incredibly destructive as a form of abuse. The Bill now acknowledges and names the experience of the victims and their families, supporting them to find justice by holding a perpetrator to account across a full range of abusive behaviours.

That move has been hugely welcomed, particularly by organisations that work with victims and see day in, day out how perpetrators use economic abuse to exert control, whether to trap the victim so that they cannot afford to leave, or to force them into destitution after they have left, so that they are unable to move on and rebuild their lives. One of those organisations is the UK charity Surviving Economic Abuse, which exists solely to raise awareness of economic abuse and to transform the responses to it.

The term “economic abuse” may be new to domestic abuse legislation, but that form of abuse is certainly not new. One in five women in the UK report having experienced economic abuse from a current or former intimate partner, and 95% of domestic abuse victims report that they have suffered economic abuse. It is widespread.

Economic abuse makes the victim dependent on the perpetrator and limits their choices and their ability to leave. The behaviour is insidious and might not be recognised by the victim. The perpetrator might introduce it as an offer to help, or to take away the worry and burden of dealing with finances, seemingly in a caring way, or they might have simply assumed control through force, threats and coercion.

Through economic exploitation, the perpetrator looks to benefit from the victim’s economic resources and, in so doing, sabotages their economic independence. That exploitation may consist of things such as demanding that the victim alone pays the household bills, while the perpetrator spends their own money on whatever they like. The perpetrator may also build up debt in the victim’s name, through coercion or fraud, or steal or damage the victim’s property, which then has to be replaced. In my experience, the thing that is seen the most is the build-up of debt in someone’s name; certainly that is the thing that people struggle to live with thereafter.

This all has a hugely destabilising impact on the victim’s economic wellbeing and, again, limits their choices and ability to leave. Economic abuse can leave victims trapped and destitute, either while in a relationship with the perpetrator or post separation as they navigate life with inescapable debt, insecure housing and financial hardship. Economic safety underpins physical safety. Building an independent life can, for many victims of economic abuse, feel impossible.

Why is the new clause vital? To answer that question, I want to talk about economic abuse following the end of intimate partner relationships. Economic abuse does not simply stop when the relationship ends. Control continues through joint resources, and in fact the perpetrator can still sabotage the victim’s resources even if they do not know where the victim is. An abuser might wipe out money in a joint account that a victim relies on, or refuse to pay an overdraft so that penalties build up and the victim cannot afford to continue paying it. The end of a relationship does not prevent the abuser from taking away a victim’s home, interfering with their ability to work and earn money, or constantly taking the victim to court in connection with their children. It also does not mean that the abuser suddenly forgets the victim’s personal information, which can be used to apply for credit in their name.

In reality, economic abuse can continue, escalate or even start after separation. Research has shown that economic abuse is actually more prevalent post separation. It is clear why: when other forms of control may have been removed, controlling an ex-partner’s access to economic resources, such as by refusing to pay child maintenance, which we heard about yesterday, or refusing to sell a jointly owned home to free up much-needed money, may be the only way in which the abuser can continue to control the victim—and what powerful and destructive control that can be.

Victims can be left with such significant debts and poor credit ratings that they are unable to move on or rebuild their lives, yet at present legislation does not afford victims the protection that they need. The link between economic abuse and controlling and coercive behaviour is stark. Analysis by Surviving Economic Abuse of successful prosecutions for the controlling or coercive behaviour offence shows that six in 10 involve economic abuse, yet limitations within the controlling or coercive behaviour offence mean that, at present, victims of economic abuse post separation are unable to seek justice.

As a result, the perpetrator can continue to control their ex-partner for years and even decades. That is because, for the abuser’s actions to fall within the controlling or coercive behaviour offence, perpetrator and victim must have been “personally connected”, as defined in the Serious Crime Act, and that definition differs from what we have in the Domestic Abuse Bill, which clearly

[Jess Phillips]

states that someone has been in a relationship or is no longer. That is clearly outlined in this new and better definition.

Under the Serious Crime Act, two people will be considered as personally connected if they are in an intimate relationship with each other, or they live together and either are family members or have previously been in an intimate relationship with each other. The result is that where a couple are no longer in an intimate relationship and they do not live together, behaviour by one of them towards the other cannot fall within the offence of controlling or coercive behaviour.

That is why the new clause is vital. We know from research and what we have heard throughout the progress of the Bill that coercive control continues after the victim's relationship with the perpetrator has ended and they are no longer living together. That is particularly true of forms of abuse that do not rely on physical proximity or the continuation of intimate relationships with the perpetrator, economic abuse being the key example.

Surviving Economic Abuse has shared the story of a woman in this position, and I want to share it with Members. Layla—not her real name—was married for more than 20 years to her abuser and has three children. Throughout the marriage, her husband was controlling and coercive, both economically and emotionally. He would do things such as pressure her to transfer money into his bank account and force her to let him use her credit card. He ran up debt on her credit card and, after separation, forced her to release hundreds of thousands of pounds of equity from the mortgage. Layla continues to pay the debts that he has put in her name, including bank loans of £70,000. He continues to use her contact details rather than his own, so she is being regularly chased by creditors for money. She has also been regularly visited by bailiffs demanding payment of the abuser's debts, which she has to pay.

Layla has been to the police, but they said that

"the continuing economic abuse cannot be considered under the coercive control offence as the perpetrator had left her."

Where is the justice in that? We must change that and bring the definition of "personally connected" as it is defined in the Serious Crime Act in line with what we have in the Bill, so that victims such as Layla no longer face the possibility of being a victim of economic abuse going unchallenged for the rest of their lives.

The Bill recognises that abuse can continue post separation and that it does not require the abuser and victim to be in an ongoing relationship or living together. Through the new clause, which has been called for by Surviving Economic Abuse and which has support from SafeLives and many other organisations in the violence against women and girls sector, we can bring those definitions in line with each other so that the intentions of the Bill are not undermined by other legislation, and victims are protected by law and can seek justice. The new clause does that by removing the requirement for intimate partners or family members to be living together for the abuser's actions to fall under the controlling and coercive behaviour offence.

Alex Chalk: I thank the hon. Lady for her excellent and helpful representations. The context is that I entirely agree with the premise of her point. If I can crystallise it, she is in effect saying, "Look, one of the most pernicious ways you can abuse another individual is through economic abuse." It is worth stepping back for a second to say that, although we recognise that in this room, if we went back as little as 15 years ago, that might have been a moot point. People have come to realise that this is a particularly potent and cruel weapon to use, and that acknowledgement is a thread that is increasingly starting to run through the law.

The hon. Lady rightly points out that the Serious Crime Act 2015 creates the offence of coercive control, but the definition of domestic abuse in this Bill is one reason why it is it such an important piece of legislation. If someone had been asked what domestic abuse was 15 years ago, they would probably have said, "Domestic abuse is domestic violence, isn't it?" No, because clause 1(3) says:

"Behaviour is "abusive" if it consists of any of the following—

(a) physical or sexual abuse;

(b) violent or threatening behaviour;

(c) controlling or coercive behaviour;

(d) economic abuse (see subsection (4));"

When we turn to subsection (4), it says:

"'Economic abuse' means any behaviour that has a substantial adverse effect

on B's ability to—

(a) acquire, use or maintain money or other property, or

(b) obtain goods or services."

I wanted to take stock of where we have come to, because that will inform some of the points that I make in response.

The final thing that I will say by way of context is that the Divorce, Dissolution and Separation Bill, which I am taking through the Committee of the whole House this afternoon, considers precisely this issue. When we say that a minimum of six months is the appropriate period for people to move on from a relationship, where some have said that it should be longer, one of the important rebuttal points is, "Hold on a minute. If someone needs to move on with their lives, potentially from an abusive relationship, they need to make sure that it can happen within a reasonable period so that the economic abuse cannot be perpetuated." We absolutely get that point, and I would say—I hope not immodestly—that we have spearheaded it.

I entirely agree with the Surviving Economic Abuse charity raising the issue, and it has done an important public service in doing so. To turn to the specific point, as we have heard, the new clause seeks to address another aspect of controlling or coercive behaviour. As the hon. Lady indicated, there have been calls from Surviving Economic Abuse and other domestic abuse charities and victims to expand the offence under section 76 of the 2015 Act by removing the living together requirement for former partners. As the offence stands, it applies only to controlling or coercive behaviour between intimate partners or former partners and family members who are living together.

10 am

It is right to say that other provisions could deal with the hon. Lady's point—I spent a huge amount of time as a practitioner, and more importantly in this place, looking at precisely that—such as the offences under

the Protection from Harassment Act 1997, which I looked at this morning to prepare for this debate. Under the Protection of Freedoms Act 2012, we introduced this offence of stalking. Again, 15 years ago stalking was something that people laughed about in workplaces around the watercooler. Now, people recognise that it is a pernicious offence. Why do I dwell on that? Because if we look at what the 2012 Act says—in this place, we never actually look at the wording of the statute; we just mention it briefly—

Peter Kyle: Speak for yourself!

Alex Chalk: I am sure that hon. Gentleman does look at it.

The 1997 Act was amended to include section 2A, which deals with the "Offence of stalking". Section 2A says:

"A person is guilty of an offence if… the person pursues a course of conduct… and… the course of conduct amounts to stalking."

Then, however—this is what I think is brilliant—the 2012 Act goes on to look at the sorts of behaviour that might constitute stalking. Subsection (3) says:

"The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking… following a person… contacting, or attempting to contact, a person by any means… publishing any statement"

relating to that person. It continues:

"monitoring the use… of the internet… loitering in any place… interfering with any property in the possession of a person… watching or spying on a person."

The reason why that is important is that it sets out the sorts of behaviour that could be stalking, but it is not exhaustive.

The reason why I say of all that is that if someone at the end of a relationship, when the two people are no longer living together, engages in a course of conduct that, to the man or woman on the Clapham omnibus, is a bit like stalking—whether or not that means trying to exert economic control—there is the potential for offences there, and I will come on to them while I am still sympathetic to the point made by the hon. Member for Birmingham, Yardley.

I am particularly mindful of that because in my own county of Gloucestershire—the Under-Secretary of State for the Home Department, my hon. Friend the Member for Louth and Horncastle has already mentioned this—Hollie Gazzard was brutally murdered. Those who have been victims of stalking say that it is like murder in slow motion, because of so much of what precedes it in terms of stalking behaviour. My point is that that can include economic abuse as well.

However, Surviving Economic Abuse argues further that stalking and harassment offences, although relevant, are not designed specifically to prosecute the sort of behaviour we are discussing. I accept that, but it is also fair to point out that, because of the way that stalking offences are drafted, it is not beyond the wit of man or woman to conceive of how they could be included, based on the facts of a specific case.

In addition, the new statutory definition of domestic abuse includes ex-partners among those defined as "personally connected" and does not have a "living together" requirement. Therefore, an amendment to the controlling or coercive behaviour offence could be seen as conforming within the definition in clause 1.

However, the case is not clearcut, given that the offence is still relatively new, and there is currently limited data available in support of a change. Because the case is not clearcut, the Government committed, in response to our 2018 consultation on domestic abuse, to conduct a review of the offence, as the hon. Lady is aware.

Jess Phillips: I love a review.

Alex Chalk: The hon. Lady loves a review, she says sotto voce.

Although Home Office officials have made good progress with the review, I am afraid that it has been one of the casualties of the covid-19 pandemic, which has meant that focus has had to be reapplied to supporting victims of domestic abuse at this time. However, the review is in place, and I am grateful to the hon. Lady for her acknowledgement and understanding of the situation.

We hope to conclude the review by the early autumn, because it is important that we have a sound evidence base for any changes to the offence, but we have heard what the hon. Lady says; the points she made are not improper or unmeritorious, and we invite her to await the outcome of the review. I hope that, in the light of my explanation, and on the understanding that we aim to complete the review by early autumn, the hon. Lady will see her way to withdrawing the new clause.

Jess Phillips: Absolutely, and I feel that I have the ear of the Minister in this particular regard. The case is quite clear to me; in the circumstances he has outlined, he is absolutely right. If he thinks that people do not read the statute here, I should say that they certainly do not in Stechford Police Station.

The reality is, what would the charge be? I find it difficult to think that the copper, in reality, on the ground, is going to say, "Actually, I think this will be a stalking charge."

Alex Chalk: I grappled with this as a Back Bencher when we wanted to increase the maximum sentence, and for precisely that reason—would a police officer, or the CPS, think it was worth the powder and shot to charge someone with stalking when the maximum sentence was only five years? It is now 10 years, because of the private Member's Bill. If someone engages in a course of conduct that seriously damages an individual, be it by economic abuse, or by hanging around outside the school gates or whatever, the courts have the power to impose what lawyers pompously refer to as "condign punishment". That provides a powerful incentive for police officers, who want to do justice in the case, to reach for the lever available to them.

Jess Phillips: I appreciate that, and I hope that that would happen in these cases. However, the cases that I am sure will inform the review that the Minister talks about show people often left without an option, rather than with a plethora of different statutory instruments that they could use. The reality is that lots of people simply get sent away with no further action. However, I take on board what the Minister has said about the review. As everyone knows, I absolutely love a review—for the benefit of *Hansard* readers, I am being sarcastic. I will await the autumn. In the meantime, I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 29

DOMESTIC ABUSE: IMMIGRATION AND NATIONALITY LEGAL AID

"(1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows: in Part 1 of Schedule 1, delete paragraphs 28 and 29 and insert—

'Immigration and nationality: victims of domestic abuse

27A (1) Civil legal services provided to a victim of domestic abuse in relation to rights to enter, and to remain in, the United Kingdom and to British citizenship, but only in circumstances arising from that abuse.

27B (2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.

27B (3) The services described in sub-paragraph (1) do not include attendance at an interview conducted on behalf of the Secretary of State with a view to reaching a decision on an application.

27B (4) In this paragraph—

"domestic abuse" has the same meaning as in section 1 of the Domestic Abuse Act 2020;

"victim" includes the dependent child of a person who is a victim of domestic abuse.'" *—(Jess Phillips.)*

This new clause would provide for legal aid for survivors of domestic abuse (and their dependent children) in relation to their immigration or nationality status or rights insofar as the need for legal aid arises from the abuse'

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 35—*Victims of domestic abuse: leave to remain*—

"(1) The Secretary of State must, within 3 months of this Act being passed, lay a statement of changes in rules made under section 3(2) of the Immigration Act 1971 ('the immigration rules') to make provision for leave to remain to be granted to any person subject to immigration control who is a victim of domestic abuse in the United Kingdom.

(2) The statement laid under subsection (1) must set out rules for the granting of indefinite leave to remain to any person subject to immigration control who is a victim of domestic abuse in the United Kingdom; and the statement must provide for those rules to be commenced no later than one month of the laying of the statement.

(3) The Secretary of State must make provision for granting limited leave to remain for a period of no less than 6 months to any person eligible to make an application under the immigration rules for the purposes of subsection (2); and such leave shall include no condition under section 3(1)(c)(i), (ia), (ii) or (v) of the Immigration Act 1971.

(4) The Secretary of State must make provision for extending limited leave to remain granted in accordance with subsection (3) to ensure that leave continues throughout the period during which an application made under the immigration rules for the purposes of subsection (2) remains pending.

(5) Where subsection (6) applies, notwithstanding any statutory or other provision, no services shall be withheld from a victim of domestic abuse solely by reason of that person not having leave to remain or having leave to remain subject to a condition under section 3(1)(c) of the Immigration Act 1971.

(6) This subsection applies where a provider of services is satisfied that the victim of domestic abuse is eligible to make an application to which subsection (3) refers.

(7) The Secretary of State must, for the purposes of subsection (5), issue guidance to providers of services about the assessment of eligibility to make an application to which subsection (3) refers.

(8) In this section an application is pending during the period—

(a) beginning when it is made,

(b) ending when it is finally decided, withdrawn or abandoned, and an application is not finally decided while an application for review or appeal could be made within the period permitted for either or while any such review or appeal remains pending (meaning that review or appeal has not been finally decided, withdrawn or abandoned);

'person subject to immigration control' means a person in the United Kingdom who does not have the right of abode;

'provider of services' includes both public and private bodies;

'services' includes accommodation, education, employment, financial assistance, healthcare and any service provided exclusively or particularly to survivors of domestic abuse."

This new clause would make provision in the immigration rules for the granting of indefinite leave to remain to migrant survivors of domestic abuse and limited leave to remain to a survivor who is eligible to make an application for indefinite leave to remain.

New clause 36—*Recourse to public funds for domestic abuse survivors*—

"(1) The Immigration Acts are amended as follows.

(2) In section 115 of the Immigration and Asylum Act 1999 after subsection (10) insert—

'(11) This section does not apply to a person who is a victim of domestic abuse in the United Kingdom.'

(3) In paragraph 2(1) of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 after sub-paragraph (b) insert—

'(ca) to a person who is a victim of domestic abuse in the United Kingdom, or'

(4) In section 21 of the Immigration Act 2014 at the end of subsection (3) insert 'or if P is a victim of domestic abuse'.

(5) In section 3 of the Immigration Act 1971 after subsection (1) insert—

'(1A) The Secretary of State may not make or maintain a condition under subsection (1)(c)(ii) on leave granted to a victim of domestic abuse in the United Kingdom; and it is not a breach of the immigration laws or rules for such a victim to have recourse to public funds.'

(6) For the purposes of this section, evidence that domestic abuse has occurred may consist of one or more of the following— For the purposes of this section—

(a) a relevant conviction, police caution or protection notice;

(b) a relevant court order (including without notice, ex parte, interim or final orders), including a non-molestation undertaking or order, occupation order, domestic abuse protection order, forced marriage protection order or other protective injunction;

(c) evidence of relevant criminal proceedings for an offence concerning domestic violence or a police report confirming attendance at an incident resulting from domestic abuse;

(d) evidence that a victim has been referred to a multi-agency risk assessment conference;

(e) a finding of fact in the family courts of domestic abuse;

(f) a medical report from a doctor at a UK hospital confirming injuries or a condition consistent with being a victim of domestic abuse;

(g) a letter from a General Medical Council registered general practitioner confirming that he or she is satisfied on the basis of an examination that a person had injuries or a condition consistent with those of a victim of domestic abuse;

(h) an undertaking given to a court by the alleged perpetrator of domestic abuse that he or she will not approach the applicant who is the victim of the abuse;

(i) a letter from a social services department confirming its involvement in providing services to a person in respect of allegations of domestic abuse;

(j) a letter of support or a report from a domestic abuse support organisation; or

(k) other evidence of domestic abuse, including from a counsellor, midwife, school, witness or the victim.

'domestic abuse' has the same meaning as in section 1 of the Domestic Abuse Act 2020;

'victim' includes the dependent child of a person who is a victim of domestic abuse."

This new clause seeks to ensure that certain provisions under the Immigration Acts – including exclusion from public funds, certain types of support and assistance and the right to rent – do not apply to survivors of domestic abuse.

Jess Phillips: There is a lot of me today, Mr Bone. Today we will discuss the issue that has come up every single day that we have sat in Committee. It will come up every single day in between now and Third Reading. In the three years of the passage of this Bill, this issue has been raised pretty much every day. I do not want people to feel that this is my particular hobby-horse, although the issue of how migrant women are treated by our current system is something that I care deeply about, and we should not make laws that exclude them. It is not only my hobby-horse; it is a hobby-horse that I share with a number of hon. Members.

On Second Reading, the right hon. Member for Romsey and Southampton North (Caroline Nokes), a one-time Immigration Minister, spoke up in favour of extending the domestic violence destitution funding that currently exists within the Home Office. The hon. Member for Brecon and Radnorshire, who is here, said,

"I ask that the Government revisit there being no recourse to public funds for victims with certain immigration statuses.—[*Official Report*, 28 April 2020; Vol. 675, c. 285.]

The right hon. Member for Basingstoke (Mrs Miller) said,

"there are currently no provisions in the Bill for migrant women facing domestic abuse".—[*Official Report*, 28 April 2020; Vol. 675, c. 249.]

The hon. Members for Gillingham—I am not sure how to pronounce that; sorry, I have never been there—and Rainham (Rehman Chishti), for East Worthing and Shoreham (Tim Loughton), for Moray (Douglas Ross), and shockingly, but everybody has a good day, even the hon. Member for Christchurch (Sir Christopher Chope) put their names to the Home Affairs Committee report, which stated:

"insecure immigration status must not bar victims of abuse from protection and access to justice."

Alongside the right hon. Member for Basingstoke on the Joint Committee on the Draft Domestic Abuse Bill were the hon. Members for Chichester (Gillian Keegan) and for Faversham and Mid Kent (Helen Whately), both now Ministers of State. They asserted:

"We recommend that Government explores ways to extend the temporary concessions available...to support migrant survivors of abuse".

This is not some liberal elite, *Guardian*-led campaign just for people like me, who might be expected wave a banner. This week, *The Sun* newspaper backed the campaign to protect migrant women in this Bill. I am sure my father will be thrilled with this, but *The Sun* said:

"Jess Phillips is absolutely right. Domestic abusers don't discriminate, so why should the law discriminate against their victims?"

I thank *The Sun* newspaper for its support.

Specifically on the new clause, which we have now established are not just part of my conspiracy, and before I begin talking about why it is so important, I will briefly explain what no recourse to public funds means. No recourse to public funds—NRPF—is a legal restriction that bars people on certain visas from claiming most benefits, tax credits or housing assistance paid for by the state. That means, for example, that someone could come to this country and stay on a student visa, but they would not be entitled to any benefits, most tax credits or housing assistance. That is all well and good, and well understood by the vast majority of people, but when a migrant woman or any migrant victim—many of whom are children—who has no recourse to public funds becomes a victim of domestic violence, the restriction hinders their ability to access life-saving refuge support and other necessary welfare provisions.

New clause 29 would remove the statutory exclusion that prevents migrant survivors from accessing the support and assistance that they need and would ensure that no survivor, whatever their immigration status, is treated as being in breach of immigration laws or immigration rules by accessing that support or assistance.

Research by Women's Aid found that only 5.8% of refuge vacancies in England in 2018-19 could accept a woman with no recourse to public funds. Three out of every five referrals to refuge are refused because of a lack of availability, and 64% of all referrals to refuge were declined. That rises to 80% for black and minority ethnic women. The chances of a migrant woman being able to access refuge are slim, bordering on impossible.

In very simple terms, in order to escape abuse, an individual needs to have somewhere to go—a safe, warm place, a bed, food, and travel for themselves and their children. All the new clause seeks is to ensure that if someone is a survivor of domestic abuse, they can access those most basic necessities, regardless of where they were born. Surely, in 2020, we can agree that we should not be turning away victims of horrific crime from refuges because of what it does or does not say in their passport. We should not look the other way when we hear from survivors, as we did in our first session, who tell us that they were left sleeping on the streets with a nine-year-old child because they had been brave enough to leave an abusive relationship.

What was clear from the testimony of survivors and from written case studies provided to us is that migrant survivors often have complex situations and face multiple barriers to finding safety. They are often too scared to report. They can be investigated and even detained if they do. They cannot access safe accommodation, and their abusers use their immigration status as a tool of coercive control against them. These are complex cases, but I am pleased to say that they have straightforward solutions. The new clause provides one of those straightforward solutions.

Refuges cannot take women with no recourse to public funds because they cannot access housing benefit. Isn't the most straightforward solution to give them access to housing benefit?

Christine Jardine (Edinburgh West) (LD): Does the hon. Lady agree that this country stands at a pivotal point in its race relations? If we accept the new clauses and recognise that women should be entitled to the

[Christine Jardine]

protection of the law, regardless of where they were born, it would make an important statement about what the Government and this place are prepared to do and prepared to change in our society's attitude to race.

Jess Phillips: Absolutely. I will no doubt come on to the issue of discrimination, but all I would say on that matter is that we have a chance in the Bill to say that all victims and all lives should be included. We could certainly pass comment on the lives that matter and those that do not.

Women without access to public funds cannot support themselves and their children independently from the perpetrator. As is often the case, the perpetrator is in control of the income and the bank accounts. Isn't the most straightforward solution to that to ensure that survivors can access welfare support?

Women without secure immigration status are prohibited from renting accommodation, so refuges find it difficult to take them. Most refuges want to take these people, but if they cannot get somebody out of the refuge because that person cannot rent somewhere afterwards, refuges are left knowing that the move-on options are incredibly limited. Isn't the most straightforward solution to that to let survivors rent?

According to Southall Black Sisters' estimates, we are talking about a group of individuals numbering in the low thousands a year. We are not talking billions of pounds, but for each of those women, the impact on their lives would be immeasurable. At the most vulnerable, scary point in their lives, they need to be believed and they need to be told that they can be helped When their abuser tells them, "You can't leave, you have no access to public funds, no one will help you, you'll be on the streets," they need to know that he is lying. At the moment, he is right.

10.15 am

I have a number of testimonies from various police forces across the country. I will forward them, at the very least, to the Minister. What the police in cases of no recourse to public funds tell me in my own backyard, and from a national policing perspective—they came in for some criticism during the evidence session—is that no recourse to public fund rules make it hard for them to police. It means that individual police officers end up paying for hotel accommodation overnight, because they have a woman and her children sat in front of them with nowhere to send them but back to their perpetrator.

If this is an ideological thing about giving assistance to migrants, I switch that on its head and make it an ideological thing about locking up bad guys. Currently, the system makes it harder, if not impossible, for the police to lock up bad guys. Anyone who knows anything about the cases in Rotherham and Rochdale will know that without victims being able to actively take part in a system that is often complex and involves lots of different statutes, as the Minister has talked about, things are difficult and sometimes take years to reach their natural end. Imagine how anyone is meant to do that when they do not have anywhere to sleep tonight. The police undoubtedly wish they had somewhere to send victims with no recourse to public funds. I will send the Minister all the testimonies I have to that effect. I do not wish to politicise the police, so I will not read them out now.

The amendment's primary purpose is to ensure that, if and when survivors find the strength to leave an abusive relationship, they have somewhere to go. It is also about taking away that string to the abuser's bow that they use so effectively and cruelly as a means of coercive control.

Some examples. KB is a woman who came to the UK from Bolivia originally on a six-month student visa. She met her partner here and lived with him and their daughters for two years, during which time he subjected her to emotional and psychological abuse. She did not report to social services and the police, because her ex-partner threatened that her daughters would be taken away and she would be deported. She was denied space in a refuge because of her immigration status and, because she has no other option, she continues to live today with the perpetrator in the same house.

Jane, a mother of two, contacted the police after an assault perpetrated by her husband. She was advised that, as the property was solely in her husband's name, she and the children would need to leave. The police did not give the family any options of where they could stay for the night. Jane's immigration status meant that she was not eligible for benefits or funding for refuge space. She reached out to the social worker but was informed that they would be able to assist the children but not her. This left Jane with the difficult decision of separating from her children or leaving with them, despite having nowhere to go—an unimaginable choice.

Peter Kyle: We are using the term "migrant woman" to describe all the people here. Should we not place on record that they are not migrants first and foremost? They are mothers, neighbours and the people we pass in the street and talk to when we are on public transport. They are colleagues in workplaces, universities and places of education. They are fully formed human beings integrated into our world here and they are also people who come from other countries.

Jess Phillips: Absolutely, I have absolutely no doubt that today in this building there is somebody serving us coffee or doing something of service who has no recourse to public funds and is affected by the problem I am talking about. My hon. Friend is exactly right. They are our careworkers and NHS workers. They are the students who keep our universities in money. They are the people who serve us every day. They are our family members. They are people who deserve help when they are harmed. They are taxpayers. They are people who give in both effort and resource. They deserve exactly the same as everyone else. If I walked into a police station today, nobody would ask me for my immigration status. Nobody would care. It would not be the thing that they thought they had to care about. They would ask me if I was all right and would treat me as a victim. If I was from Bolivia, they would ask me about my immigration status.

As the hon. Member for Edinburgh West said, we are at the precipice. It is not okay that some people matter and some people do not. It is one thing to try to undo things from the past—to topple statues and try to deal with complex cases from the past—but we are making this law today, and we are not making it for everyone. That is fundamentally wrong.

There are women like Myra—the final case study—who attempted to leave her abusive husband a number of times, having reported her rape to the police. They took no further action and did not refer her to local domestic abuse services. After three years, she made the decision to find safety and leave. She had no recourse to public funds, and contacted 10 refuges, which were unable to offer assistance due to the NRPF condition. During that time, she was forced to remain at home with her husband and faced further abuse, which took its toll on her mental health. She said:

"many times, I thought of giving up, many times."

Those case studies all come from the Women's Aid "Nowhere to Turn" report.

I can already anticipate that the Government's response to what I said will be to point out the ongoing Home Office internal review into NRPF. I am sure the Minister will mention how the Government have recently announced £1.5 million for a pilot fund to cover the cost of support migrant women with NRPF in refuge in order to better assess the level of need for that group of victims to inform the spending review decisions on a longer-term basis. Both those proposals fail to appreciate the urgency and seriousness of the risk of abuse and destitution that abused migrant women on non-spousal visas face.

Julie Marson (Hertford and Stortford) (Con): Yesterday, the hon. Lady referred to the destitution domestic violence concession as a lifeline to those on temporary visas. Does she agree that a very high proportion of migrant women are helped to access that kind of support thanks to the tampon tax funding?

Jess Phillips: I absolutely do think that, but obviously not all of them, by any stretch of the imagination. We were told that we were taking back control, but the only thing I feel we actually took back control of was the extra quid I have to pay when I have my period. We will not have to pay the tampon tax anymore. Some of the most vulnerable people in our society are relying on the good will of various pilot projects here, there and everywhere, and we are not expressing in our laws that we see those victims. I recognise that that fund has helped lots of people, but we have an opportunity to change this permanently.

The Parliamentary Under-Secretary of State for the Home Department (Victoria Atkins): Just to be careful, the tampon tax funding was to assess the nature and scale of the women who cannot claim DDVC. Of course, women who do claim DDVC—there are about 2,500 of them—are not dependent on tampon tax funding. That is business as usual for the Home Office. It is funded by the taxpayer year in, year out.

Jess Phillips: I absolutely agree. I love the DDVC and what I am asking for is business as usual for the people serving coffee. I want the situation to be business as usual for everyone. Business as usual should mean that in this country, if someone, no matter who they are, gets punched in the face, or raped in the evening, we say "D'you know what? We'll help you." That is the kind of country that we want to live in.

As I was saying, with both the proposals currently in the pilot projects there is a failure to appreciate the urgency and seriousness of the risk of abuse and destitution that abused migrant women and those on non-spousal visas face. Pilot projects take considerable time—sometimes years—to complete and evaluate, and can be followed by further pilot projects. That simply delays the introduction of the urgent measures that are needed now to protect abused migrant women.

Also, I am not sure why we would not write the pilot project in question into the Bill, because, as everyone knows, there are a number of pilot projects in it. Domestic abuse protection orders are in a pilot project, and so is polygraph testing. The Bill loves a little pilot project. The Home Office has been stalling on addressing the need to implement immediate protection measures for migrant women. It is not good enough just to have an ongoing internal review. We need action.

The internal review has been supplemented by a series of meetings, including ministerial roundtables and periodic calls for evidence, as well as engagement with the sector organisations on a regular basis. I am disappointed that the Home Office has not yet published the outcome of the review, ahead of Committee, so that it could be properly scrutinised, and that it has chosen instead to announced a proposed pilot project.

My position, which reflects the overwhelming views of the sector—the police, the Victims Commissioner, the domestic abuse commissioner, the Children's Commissioner and social services—is that the domestic violence rule and all the ways in which it works brilliantly should be extended to all migrant survivors. That brings me to new clause 35, which would do exactly that. If I could have anything of all the items in the group—and I recognise that I do not get everything I want—it would be new clause 35.

The domestic violence rule was introduced in 2002. We did not call it that in 2002; it was called the Sojourner project, which I like to say with a Birmingham accent. It was introduced to provide migrants on a spousal or partner visa with a way to apply for indefinite leave to remain when the relationship had broken down because of domestic violence.

In 2012, the destitution domestic violence concession was introduced. It gave domestic violence rule applicants three months of temporary leave and a right to have access to limited state benefits while an application for indefinite leave under the domestic violence rule was considered. The domestic violence rule and destitution domestic violence concession work. Well done to the Home Office. Bravo. It did a great job. It works. It is not perfect, but it does a good job.

That twin-track approach provides a vital lifeline for domestic violence victims on spousal and partner visas, because it allows survivors to resolve their immigration status as well as having access to emergency funding. Ultimately that helps them to become independent of the perpetrator and the state. Yet currently the domestic violence rule and destitution domestic violence concession do not extend to migrant victims on non-spousal visas. That includes victims who are on student or other visas such as work permit holders and domestic workers. We have essentially created a two-tier system. What I find unusual about that two-tier system is that, in my experience of some of the more problematic issues in the visa system and its use for safeguarding, the spousal visa bit is not what I would favour.

Between April 2015 and March 2016, 67% of users who accessed the Southall Black Sisters no recourse fund, supported by the tampon tax, were on non-spousal

[Jess Phillips]

visas. A survey conducted by Southall Black Sisters between November 2012 and January 2013 found that 64% of 242 women did not qualify for the DDVC and were without a safety net. Similarly, Women's Aid reported that over a one-year period, two-thirds of its users with NRPF were not eligible for statutory support because they were on non-spousal visas and had no recourse to public funds.

10.30 am

By introducing the DV rule and the DDVC, the Government recognised that abused migrant women with insecure status required immediate support and protection. What I am now seeking is not new or radical; I am simply asking the Government to build on existing good practice and offer protections to all migrant victims of domestic violence.

New clause 35 will build on current good practice. As I said previously, the destitution domestic violence concession provides vital support, but the current three-month time period creates obstacles for victims trying to access support. I know that the Government have already concluded that extending the destitution domestic violence concession—my gosh, it was annoying to say when I was a support worker; we need to come up with a much snappier title—to six months would make little difference as applications for indefinite leave to remain are resolved quickly and well within three months.

I have to ask: how did the Government reach that conclusion when frontline services have highlighted time and again how the decimation of specialist services for migrant women sees victims being passed from pillar to post before accessing support? That can often take longer than three months. There are currently only 30 specialist BME organisations. It is difficult for women to secure adequate accommodation, as refuges and landlords do not want to risk the uncertainty of what happens if a victim is not granted indefinite leave to remain.

It is really hard when somebody rings up on Friday night and you are the person taking the refuge referrals that night, and somebody has no recourse to public funds and they have not yet applied for the destitution domestic violence concession. You have to make that decision about the balance of their case over the phone, when you do not have the woman in front of you, or her children, or know anything about her situation. You have to make, on balance, a decision about whether you can take that woman if you have a space—which, obviously, is crashingly rare. You have to make that decision and you have to think that if she does not get ILR—this sounds awful—you are then stuck with a woman with no funding, who you will not turf out because you know she might die if you did.

Because of the way that the system works, that happens even with people on spousal visas. Because you do not know the merits of their case when you take a referral, you have to think, "Okay, even if she did three months, the vast majority of people stay in a refuge much longer than three months." I don't know if you have noticed: it is really difficult to get a house. So getting people out of refuge is complicated and hard; even if we give them the status of priority need, it will not make houses exist. If you knew you could pay for them for six months, or at least find them rent for somewhere for six months, you would be much more likely to take them. So what has occurred in refuge accommodation is that these women, even those on spousal visas, have become too risky as a result of the limitations of the scheme.

The severe cuts to legal aid in the last round mean that it often takes longer than three months for migrant survivors to access legal aid and immigration advice. Cuts to legal aid have created a shortage of specialist immigration advisers, who would typically help with the domestic violence rule application. We have revered lawyers a lot in this Committee.

Alex Chalk: Hear, hear.

Jess Phillips: I am not wholly sure that we will be hearing from all the immigration solicitors that I have come across in my life. I think there is a definite problem in the system with regard to some immigration advice that I get to see being charged for and paid for.

Alex Chalk: I thank the hon. Lady for making that incredibly important point. When somebody is prosecuted by the Office of the Immigration Services Commissioner, it is a serious issue of unscrupulous, unqualified, unethical individuals giving legal advice, and that is a particularly shabby thing to do when know the impact on the victim is known.

Jess Phillips: It certainly is. In these circumstances, people turning up to my office, having forked out £5,000 for a form that they could definitely have filled in by themselves, even if English is not their first language, is a phenomenon. I am afraid to say, I even have some come to my office and ask me to refer people directly to them, as if, like a quid pro quo, they will give free legal advice if we send people. It is a wild west situation.

That brings me to new clause 29, which seeks to provide migrant survivors with legal aid. Often, the cases are complex and it cannot be left to specialist BAME organisations to provide that legal advice. As I mentioned, there is already a deficit in specialist BAME services. Failure to protect all migrant women from abuse has wide-ranging financial and societal consequences —consequences that exceed the cost of extending eligibility of the DV rule and the DDVC.

The economic cost of supporting migrant women with NRPF is often borne out. We might not be paying for it at the Home Office, but it is often borne out by local children's services, local councils, health and education services, the police and the criminal justice system, as well as by non-statutory agencies. Many women rely on section 17 support under the Children's Act 1989, which would not be the case if they were eligible for the DV rule and the DDVC. We end up somehow paying for it with either lives lost or some other scheme somewhere along the line.

In its briefing paper on migrant women, Southall Black Sisters highlighted that London boroughs in 2017-18 supported 2,881 households with no recourse to public funds, at a cost of £53.7 million. That was primarily linked to the discharge of their duties under the Children's Act 1989. The average duration of local authority support is under two and half years, with 30% of families being made dependent for 1,000 days or longer, often because

of Home Office delays in resolving immigration claims. One of the primary groups referred to local authorities with NRPF is single mothers who are subject to domestic abuse. The majority of households no longer require local authority support when they are granted leave to remain, because they go on to find work. Surely that is what we all want to see happening.

What assessment have the Government made of how much it would cost to extend the domestic violence rule to all migrant victims? I guess it would cost less than the millions run up by the statutory and non-statutory services to support migrant women. It would be cheaper, and it would certainly be kinder. Although it would perhaps not be so ideologically pure, it would be the right thing to do. Furthermore, by hindering access to life-saving support, there are wider implications for the Government's international human rights commitments and obligations to combat violence against women and girls.

In their October 2019 report on the ratification of the Istanbul convention, the Government amended the status of their progress on article 4.3, which is the non-discriminatory section, and on article 59, which includes measures to protect victims whose residency status is dependent on a partner, from "compliant" to "under review"—going backwards. As a consequence of their inadequate response to migrant victims of domestic abuse, the Government must now use the opportunity provided by the Bill to ensure meaningful protection for all women.

I am nearly done—worry not—because I want the Minister to have plenty of time to respond. In the evidence session, the hon. Member for Louth and Horncastle talked about the national referral mechanism after it was raised by another Member. In fact, a victim of domestic violence was asked during the evidence session whether she had been referred to the national referral mechanism. As somebody who used to be one of the people administering the national referral mechanism and who ran one of the trafficking services for many years—in fact, I helped to set it up with the Salvation Army as one of the sub-contractors—I want to express, for the benefit of the Committee, some concerns about the cross-over with the national referral mechanism in such cases.

The national referral mechanism has never been used to deal with cases of domestic abuse; that was never its intention. I read the guidance during the weekend after the evidence session. The only mention of domestic abuse in the thousands of pages of guidance suggests that when people identify a victim, they should use some of their experiences with victims of domestic abuse, because victims might react similarly and might not want to talk. That is literally the only mention.

There is some mention of forced marriage and sham marriage in the guidance. However, I have been speaking to the providers this week and have been asking them about how many cases they have seen where those are factors. It is vanishingly rare. Lots of the providers offer both domestic violence services and trafficking services. There is Ashiana Sheffield and Black Country Women's Aid, where I used to work. They provide both domestic violence services and trafficking services, which are completely distinct. There has never been any suggestion that migrant victims with no recourse to public funds would be able to get through the NRM. As someone who has taken referrals through the NRM, I can tell Members that if a person tried to take these cases through that mechanism—probably with some immigration lawyer helping them to do so—it would count against them. It would look as if they were gaming the system, because these cases inevitably would not get through the NRM. Almost no migrant women on non-spousal visas would be able to access the NRM: it is not for them. They have not been exploited, there are not means, and there are not the three main things that are needed to make a trafficking referral.

However, well over five days ago, I tabled some named day questions to the Home Office. I have not had a response, but I have chased them again this morning; maybe the Minister can answer some of those questions. I asked whether the Secretary of State for the Home Department would

"publish all correspondence between her Department and the contract provider for the Modern Slavery Victim Care Contract on the inclusion within that contract of support services for victims of domestic abuse with no recourse to public funds."

I also asked the Secretary of State

"how many applications to the National Referral Mechanism (NRM) made reference to forced marriage in the last full reporting year; of those how many people were (a) accepted into the NRM and (b) had their application declined."

Southall Black Sisters, working with a number of other agencies, has circulated a pretty comprehensive guide to why these particular victims would not qualify. That is not to say that the NRM is not a good system; these victims just would not qualify for it, and it is quite laborious to try to put them through it, so I am not sure why we are currently wagering on the NRM.

Julie Marson: Given the schemes we have talked about—the hon. Lady has mentioned the need for data, and there has been mention of the £1.5 million fund—does she acknowledge the need for data and more analysis of where the gaps are, to determine where we can fill them and what we can do best?

Jess Phillips: Of course I do, and quite a lot of data has been gathered. It is funny, though, that we are asking for data on some things but not others. Women's Aid holds at least as much data about no recourse to public funds as Southall Black Sisters, if not more, because they run the No Woman Turned Away programme. However, I noticed that at the evidence session, Lucy Hadley was not asked to provide data.

There is plenty of data out there, but it is also important to say that we cannot prove a negative and cannot rely on these organisations to do so, no matter how much funding we give them. I see these cases all the time, all over the country, and I would not necessarily refer the victims to schemes that are largely based in London. We are asking these organisations to tell us what does not exist. All Members present recognise that there are masses of data about domestic abuse that we will never know anything about, because people do not come forward.

We give people money to run a scheme and then say, "It has to be entirely based on evidence", but the Government bought a contract for ferries from a company that did not have any boats—that is just one example I could give—so I find it hard to understand why more evidence is required from some people than from others.

[Jess Phillips]

Of course evidence is needed, but pretty much every expert is saying that the extension of the DDVC is a very simple extension that would not cost loads of money. We are beginning with the thousands of women who are on those particular visas, then reducing that to the women who are more likely to come forward, and reducing it again to those who have been victims of domestic abuse—we are going down and down. It is just the right thing to do.

I have not been presented with loads of data about lie detectors, or about other things that are in this Bill; I just take it on trust. We have never before had a charge of economic abuse, but nobody is saying that because no one has been charged with that offence, we should not introduce it. I just think that it casts aspersions on the organisations that might be doing that work, as if to say that the evidence is not there when it clearly is. I know that that is not what the hon. Member for Hertford and Stortford was trying to do. The Government have to find a reason why they are not doing this, because the reality of why they are not is not particularly palatable. Evidence is obviously the one they lean on.

10.45 am

We have the opportunity to help all victims of domestic abuse. We do not need any more reviews. Frontline services tell us exactly what they need, the police tell us the problems they face and we have the Joint Committee and the Home Affairs Committee. We have clear solutions on a way to help migrant women. We have a system that works—it is a good system, and the Home Office should be proud of it. I urge the Government to think carefully about the messages that they want to send. Women across this country are working but not entitled to support or help because of their immigration status.

Christine Jardine: The hon. Lady mentioned a whole list of organisations. It is fair to say that all of us in this place, and all those organisations, have been on a journey for the past three years since this Bill was originally placed before Parliament. It is important. We have come a long way in those three years, and the importance of the Bill cannot be overstated, especially with covid-19—but we need to get it right. Can we sum it up as, "We cannot leave anyone behind"? We should not leave anyone to face domestic abuse alone, regardless of gender, race, sexuality, age or religion, or because there might be some dispute about their immigration status. That is where we are now, and the Government have to bear that in mind.

Jess Phillips: I absolutely agree. We have a duty in this place to remove the most pernicious barriers that survivors face in escaping abuse. We can ensure that, in an emergency, every survivor of abuse is treated by the services in the same way at the point of need. We can make it so every victim faces what we in this room would face if we came forward.

I urge the Government to consider the amendments and to make the Bill truly transformative. Currently, the Bill discriminates. In the era of Black Lives Matter, how can we have a groundbreaking Bill that ignores victims based on where they were born?

Alex Davies-Jones (Pontypridd) (Lab): Diolch, Mr Bone. The protection and inclusion of migrant women in the Bill is vital. I pay tribute to my hon. Friend the Member for Birmingham, Yardley. She said that this issue is not her hobby-horse, but it is fair to say that she has banged this drum so loudly that it would be impossible for any of us not to hear it—I thank her for all the incredible work she has done.

I also pay tribute to the fantastic charities and organisations up and down the country that have supported work on the Bill, in particular Women's Aid. Last week, the Committee heard evidence from the Latin American Women's Rights Service, just one organisation that is focused on and campaigning for the rights of migrant domestic victims. Anyone in the room today would struggle to undermine the power of the evidence that we heard. What really struck me is that the Bill needs to deliver full and equal protection for all domestic abuse victims.

The Istanbul convention is clear that victims of domestic abuse should be protected regardless of immigration status, yet the Bill contains no provision to tackle the multiple forms of discrimination and the often insurmountable barriers to support facing migrant women. Three key measures could be implemented to support those individuals. The first is safe reporting. Migrant women clearly face severe barriers to reporting domestic abuse and seeking help. We have already heard some of the key issues explained so eloquently by my hon. Friend the Member for Birmingham, Yardley.

We heard that perpetrators often use immigration status as a form of coercive control—threatening to inform the authorities, exploiting a survivor's fear of deportation and destitution, or withholding information or documentation surrounding their status. The hostile environment of the Home Office and its immigration policies only compound the barriers that many migrant women face in leaving their abusive situation. I find it borderline unethical and hugely concerning that more than half the police forces in England and Wales have confirmed, in response to a freedom of information request, that they share victims' details with the Home Office for immigration control purposes. Surely our duty is to protect victims, and immigration action should not be prioritised.

Hon. Members will be aware of Operation Nexus, the joint operation between the Home Office and some police forces, which aims to tackle offending by foreign nationals. It has led to increasing co-operation between immigration enforcement and forces, including placing immigration officers in police stations and carrying out immigration checks on victims and witnesses of crime. I am shocked and appalled that, at a time of emotional turmoil and often physical trauma, basic human rights seem to be undermined in the name of immigration control.

Indeed, in 2017 it was reported that a victim of kidnap and rape was arrested for immigration offences and referred by the police to immigration officials. It is no surprise that migrant women often justifiably fear the police and other statutory agencies that, in theory, exist to support and protect us all. It is vital that safe reporting mechanisms for survivors accessing vital public services exist. Migrant victims need to be able to safely report abuse to the police, social services, health professionals and others, with confidence that they will be treated as victims and without fear of negative repercussions related to their immigration status.

Nickie Aiken (Cities of London and Westminster) (Con): I have experience of Operation Nexus in Westminster, where we have seen an awful lot of trafficking and modern slavery. I would be grateful for the hon. Lady's thoughts on whether sometimes the immigration officials need to get involved, because women want to go home, or they want to be safe. Rather than being persecuted by the police or being involved in criminal activity, they are victims. If the immigration service is involved, in my experience, they can be treated more safely and sent home.

Alex Davies-Jones: I appreciate the point the hon. Lady makes, and I am glad that she has had such a positive experience of Operation Nexus, but I believe that is an exception to the rule. I think, if we spoke to other hon. Members in this House, they would not have the same experience. Some women in that situation do want to go home, but I think the majority of them just want to be safe and protected from abuse, and that is not the case with anxiety and fear hanging over them from immigration officials sat in the room, especially if they do not speak the same language. It is very difficult.

Colleagues have also spoken about the lack of recourse to public funds that migrant victims of domestic abuse face. That lack of support is a huge barrier for women across the country. We have heard that without recourse to public funds, victims are not eligible for welfare benefits, which are required to cover the cost of stay within a refuge service. Very few refuge services do not face a funding crisis after 10 years of cuts, and they are unable to cover the cost of women's stays without that funding. Indeed, only 5.8% of refuge vacancies in England in 2017-18 would even consider a woman with no recourse to public funds. That is not because they do not want to help them, but because they are physically unable to do so.

Some fantastic initiatives have been set up in response to the crisis, but, frankly, this legislation should be there to protect those women in the first place. The destitution domestic violence concession, the DDVC, is just one example of a vital lifeline run by and for BAME women. It provides survivors with welfare benefits for three months, so that they can stay in refuge while applying for indefinite leave to remain under the domestic violence rule.

However, the DDVC and the domestic violence rule are only available to those on spousal visas where their spouse or partner is a British citizen or has settled status in the UK. Many migrant survivors are therefore barred from accessing this protection. Advice can only be provided by an immigration solicitor or barrister or an accredited immigration adviser and, given the legal aid restrictions we have heard about, gaining access to that advice can also be a severe challenge and is pitted with so many problems and issues.

The DDVC provides access to public funds as long as a woman applies for leave to remain within three months, yet for women escaping their abuser and who are experiencing trauma, that timeframe is often too limited. Changes to appeal rights also mean that most women refused indefinite leave to remain under the DVR cannot appeal the Home Office's decision—a decision that is made without ever even meeting the applicant. That means that women who cannot submit objective evidence for domestic abuse support in their application are at a severe disadvantage.

The experiences of survivors with no recourse to public funds, unable to access refuge, are shocking. Only 8.2% of the women with no recourse to public funds supported by the No Woman Turned Away project in 2017 were able to access refuge—just 8.2%. Many had to sleep rough, sofa surf or even return to the perpetrator while they waited for help. We have already discussed the pressures on the housing sector in England, but for a migrant survivor, the impact is even more severe. Urgent changes to the DDVC and the DVR are required to ensure that migrant women can access those basic protections.

The impacts are felt across the Union. It would be a shame for me not to use the opportunity to briefly mention the impact that the UK Government's policies have had on migrant women in my constituency. I hope that hon. Members will indulge me as I briefly discuss a case that my office recently worked on involving a migrant domestic abuse victim.

I am sure that other new hon. Members will agree when I say that, since my election in December, I have been overwhelmed in every sense by the number of campaign groups that have been in touch to ask me to support their cause. It is often difficult to choose where to focus my efforts and I am still learning. For me, however, sharing local resources and information aimed at domestic abuse victims has been a priority, especially given the current coronavirus climate.

South Wales police is doing some excellent work with local organisations to encourage a multi-agency approach to processing reports of domestic abuse, and I wanted to do my bit too. I am sure other hon. Members will agree that any social media content that is produced in relation to domestic abuse is usually shared far and wide, and often outperforms any other content. That is an indication of the broad reach that domestic abuse support has.

After one specific Facebook post, in which I shared local helplines and encouraged victims to reach out for support if necessary, my office was contacted by a woman suffering domestic abuse in north Wales. Before hon. Members scold me for not following parliamentary protocol and raising cases only on behalf of my constituents, the woman had no fixed address and was initially afraid to share any specific details for fear of negative repercussions. Her story was one that I have since heard from many on a number of occasions of having no recourse to public funds. It is a story that persists.

There are some fantastic organisations in Wales that operate solely to help women such as that woman, who now lives in my constituency. Bawso is just one group that I know has helped many MPs and Members of the Senedd across Wales with similar cases. As an MP representing an area in Wales, it is often extremely difficult and challenging to marry up the broad help and housing policies that the Welsh Labour Government have implemented that are specific to domestic abuse victims with the often restrictive and hostile immigration policies of the UK Government. I sincerely hope that migrant women, like the ones living in my constituency, will finally have their voices heard and will ultimately receive parity in terms of access to welfare support in future.

Christine Jardine: I will not go over the case eloquently made by the hon. Member for Birmingham, Yardley. She said that this is now her hobby horse, but a lot of us across the House are grateful for the fact that it has become one for her.

As I said earlier, we have all been on a journey to get here. I wonder if, when the right hon. Member for Maidenhead (Mrs May) originally tabled the Bill three years ago, she thought that we would be where we are as a country, apart from anything else, when it finally, hopefully, passed into law. It has been a long road. In some ways, the journey that we have travelled could be compared with that of the migrant women who we are talking about in the problems and the strife that we have faced.

What is important is that our situation now makes the Bill more needed than it was even three years ago. The lack of support has been brought into stark relief by covid-19 and the horrifying increase in the number of women—specifically women—who are suffering. We need to get it right and, as I said earlier, leave nobody behind.

I hope that I am not alone in having been inspired and moved by the evidence we heard from migrant women who are survivors of domestic abuse—by their bravery, their spirit and the way they faced it. One woman in particular moved me when she told us about moving to the UK from Brazil with her partner and two children. Eight months after she arrived, her partner turned violent and she fled from the house with her eldest child. The Home Office could not help her because her visa had run out, and she was told that she would have to wait. She had no financial support and, as the hon. Member for Pontypridd mentioned earlier, she ended up sleeping on the street. Her situation is still precarious: she lives from one short-term visa to the next and because of her immigration status, she cannot access public funds.

We have all said that that is wrong. We say it time and time again, but it does not matter how many times we say it, it is not enough. Saying it is wrong and recognising it is wrong does not magic up a solution. We have to take action, and we have to do that with this Bill. That is why I support this group of new clauses. We have created, as the hon. Member for Birmingham, Yardley said, a two-tier system that is inhuman and that is the nub of the argument. It is an argument about humanity.

11 am

All migrant women—all women—who experience or who are at risk of abuse, regardless of whether or not they have a visa, deserve our protection and if they do not have a visa, they should be allowed to remain in this country, because if they are survivors of domestic abuse, what they need more than anything else is safety and security.

Liz Saville Roberts (Dwyfor Meirionnydd) (PC): Does the hon. Lady agree that it is a matter of how we look at our fellow human beings and what we prioritise? Do we see them as immigrants, foreigners, people who do not warrant our protection, first and foremost, or do we see them as victims in need of protection, calling out to us for support and who deserve that support?

Christine Jardine: I thank the hon. Lady. That is exactly the nub of the new clauses. We should not be regarding these women as migrants; we should be regarding them as women who deserve our support. No one who has been through domestic abuse and survived it should have to hear the two words, detention or deportation. That is inhuman.

Fay Jones (Brecon and Radnorshire) (Con): I have been listening very carefully to the hon. Lady's speech and those of other colleagues. I have no doubt that the new clauses are very well intended, but I am concerned that they could create a perverse incentive and actually perpetuate instances of domestic abuse. New clause 36(6)(g) could be so easily ignored that it facilitates abuse. We really must be alive to the unintended consequences of the new clauses.

Christine Jardine: I thank the hon. Lady for her comments. I hope she will forgive me, but I would accept any number of false claims in order to save one person who has been through domestic abuse. I do not think it is enough to say that people could abuse the system. We have to make sure that we have a good system that is not easily open to abuse, but its prime focus has to be on supporting victims of domestic abuse, whoever they are, wherever they come from, regardless of race, ethnicity, religion or immigration status.

Jess Phillips: It would be perfectly reasonable for the Government to put in safeguards for evidence in any case, just like the evidential base that we currently have for legal aid in the system for victims of domestic violence, where tests can easily be met. Do you know what? I have spoken enough and I will get another chance.

Christine Jardine: Sorry, I am just getting over the shock of that!

It is incumbent on all of us to make sure that the Bill is good strong legislation and that its primary focus is on supporting victims of domestic abuse, regardless of their race, religion, ethnicity or immigration status. We should remember, in all of this, that it could be, at any point, not just someone we do not know, but our sister, our friend or our colleague. It could be any one of us and we should put ourselves in that position and ask ourselves what we would want the Bill to do to defend us.

Victoria Atkins: It is a pleasure to serve under your chairmanship, Mr Bone. I welcome the opportunity to debate this issue in Committee, because very often, with the best will in the world, the very nature of parliamentary questions and oral questions and so on is that they are quick and the next question is heading up and so on. I am pleased that we can spend some time debating this issue today.

I say that because I wish it was as easy as the hon. Member for Birmingham, Yardley has painted—I really do. I think she has the measure of me by now; she could not accuse me of not being compassionate, of not understanding or of not wanting to do the very best that we can for victims of domestic abuse. Against that background, I must not be led by my heart alone, but must also use my head to deal with some of the points and suggestions that have been made.

Let us focus first on that about which we all agree: that victims of abuse should first and foremost be treated as victims. Where we differ perhaps is on how we

achieve that, the nature of the support and how it is best provided. For the benefit of those who do not have copies of the new clauses in front of them, they do not deal with services, provision of refuge spaces and so on; they deal only with the provision of legal aid and changes to immigration status. I say that because I am painting the journey that we have taken over the last year on the pilot project. It is very important to bear in mind that, even though the new clauses are being debated, the Government have committed to the pilot project to get some data and evidence on which we can create specific and careful policy.

New clause 29 seeks to extend entitlement for legal aid to migrant victims in relation to their immigration and nationality status. The legal aid scheme is targeted at those who need it and the Government have always been clear that publicly funded immigration advice is available to some particularly vulnerable individuals. The destitution domestic violence concession is run by the Home Office and was created because we understood that there is a problem with victims of domestic abuse who came to this country on spousal visas with legitimate expectations about setting up their lives and those of their family here. We were alerted to and saw that there was a problem, and the DDVC was created.

Under the DDVC, victims are eligible for legal aid when applying for indefinite leave to remain or for residence cards, subject to the statutory means and merits tests—that three-month period can be extended. I have looked at the figures myself; indeed, I looked at the form this morning to refresh my memory. It is a simple form—certainly simpler than some of the forms that the Home Office produces—and it is, I would say, a light-touch form, precisely because we appreciate that it may be used by traumatised victims and we want to be sensitive to their states and circumstances. It is a light-touch form just to log them into the system, as it were, and from that, the benefits—legal aid and so on—can flow where they apply.

People who are not on a spousal visa and who are not therefore eligible for the DDVC may still be eligible for help with legal aid through the exceptional case funding scheme, so long as relevant criteria are met. That scheme is specifically designed for cases in which the failure to provide legal aid could risk a breach of an individual's human rights. In those circumstances, provided that an applicant passes the means and merits test, legal aid must be granted. The Ministry of Justice is making changes to the scheme to ensure that it is easy to follow and accessible to all, including by simplifying the forms and guidance and working with the Legal Aid Agency to improve the timeliness of decisions.

In the situations that the hon. Member for Birmingham, Yardley mentioned, such as leave to enter, leave to remain and citizenship, victims of domestic abuse can already apply for legal aid through the exceptional case funding scheme, if they are not already eligible under DDVC. One of the consequences of new clause 29 would be that domestic abuse victims would be eligible for legal aid for applications under the EU settlement scheme.

The scheme has been designed to be streamlined and user friendly, and the majority of applicants would be able to apply without the need for advice from a lawyer. Indeed, the latest figures, as of 30 April, show that 3,220,000 applications have been completed. Again, it is not an arduous process. We have deliberately tried to make it as streamlined as possible, while ensuring that the requirements are met in terms of years lived in the country, precisely because we want to help people—our friends, our family—stay in the country in January next year.

The Home Office has put in place measures to ensure that people who may have difficulty with the online scheme have help. We appreciate that age or different circumstances may mean that not everybody is as tech savvy as the younger generation, so we have put help in place. Even then, we have legal aid as a safeguard, if it is necessary. While we recognise the importance of providing support to domestic abuse victims, we consider that the current scope of legal aid and the availability of the exceptional case funding scheme already ensure that victims of domestic abuse can access legal aid when they need to.

New clauses 35 and 36 seek to provide at least six months of leave and access to public funds to all victims of domestic abuse who do not fall within the spousal visa DDVC scheme. This would mean that all migrant victims of domestic abuse would have a route to indefinite leave to remain and ensure that they could access publicly funded support.

If I understand the objective of the hon. Member for Birmingham, Yardley correctly, she wants to extend the DDVC scheme and the domestic violence rule to cover all migrant victims of domestic abuse, to place the DDVC in the immigration rules, and to lift immigration restrictions for any migrant victim of domestic abuse. I will try to break down the figures and I will go into them further in a little while. I appreciate the help from the sector. The hon. Lady was a little unkind to me when she described the way in which we have used the sector. We appreciate the help that the sector has given us on this, but we want to consolidate it and build on it, which is why we are investing in a pilot project later this year.

Southall Black Sisters responded to the Home Office as part of our work over the last year. Again, I will go into that more in a moment. Of the people that they helped in 2019-20, 43% of the women had a spousal visa on arrival and/or upon their contact with services. In Southall Black Sisters' assessment, the next most frequent category of immigration status among people they helped was right down at 8%. That gives us an idea about how many immigration statuses and routes there are, which is a factor that the Government must take into account.

The next most common category of women that they helped, after those on spousal visas, was those who were seeking asylum. Happily for people who are seeking asylum, there is a whole network of support for them. It goes without saying that not every person who applies for asylum is a victim of domestic abuse, but, again, we have listened to the sector. We have changed the system for people who are in the asylum system and are experiencing abuse, so that they get a few top-up payments to help them access the specialist support services they need, including safe accommodation.

After the category of asylum seekers, which was 8%, there are three categories with 5% in each. Those categories are EU dependants, people who had overstayed on their visitor visas and people who were described as overstayers on unspecified visas. I say that to give context to the

[Victoria Atkins]

variety of circumstances that victims may find themselves in, but I am afraid that treating them in a blanket way gives us cause for concern.

11.15 am

Jess Phillips: Personally, Minister, I do not care how people came into the country if they have been beaten up.

Anyway, with regard to asylum, when the Minister states here in front of the Committee that we give specialist support to victims in the asylum system, I would absolutely love to hear about some of that specialist support. For example, if someone was a victim of domestic abuse and they entered into National Asylum Support Service accommodation in my constituency, what is the specialist support they would get in that accommodation?

Victoria Atkins: Members will no doubt allow me just to flick through the timeline; for those who are not in the room, it is a thick document, so it may take me some time to find the—

Jess Phillips: If the Minister would like me to intervene again, and tell her what support is—

The Chair: Order. I am sorry to interrupt the Minister. I just thought that I ought to make it clear that while I am in the Chair, I have no views on the matter before the Committee, although many of you will know that I did chair the all-party group on human trafficking and modern slavery, and I was not aware that that subject was going to come up for debate today. Please be assured that while I am in the Chair, I am neutral.

Have I spoken for enough time, Minister?

Victoria Atkins: May I record my thanks to the Chair, and also acknowledge the work that he has done on this topic, and the difficult questions that he asks me on occasion during Home Office oral questions? I am extremely grateful to him.

There is a Home Office policy entitled, "Domestic abuse: responding to reports of domestic abuse from asylum seekers", which is dated 16 July 2019. I am told that the policy changes set out in that document provided a concession whereby victims of domestic abuse in asylum support accommodation can apply for top-up payments to cover the cost of transferring to a specialist domestic abuse refuge.

We are listening and we are very much trying to be led by the evidence. However, I will make the point that we need a firmer evidence base. That is not a criticism of the charities involved, but we need to understand this very diverse group of people, who are diverse in terms of their experiences; we need to understand the nature of the abuse and the ways in which they have come to be in our country. That is relevant because—*[Interruption.]* It is relevant, and I will go on to say why in a moment. We also need to understand the experiences that they may have at home with their family members, and so on. Understanding all of that is important to ensure that public money is spent in the best way possible under our policy.

The Joint Committee that scrutinised the Bill considered similar changes to the DDVC and domestic violence indefinite leave to remain, or DVILR. I have to say that its recommendations fell short of the proposals to incorporate the DDVC scheme within the immigration rules. I also have to say that we are not attracted to the approach being set out today either. The DDVC scheme is an administrative scheme and it has worked successfully on that basis since its introduction in 2012. As a concession operated outside the rules, it can be applied flexibly and can readily be amended as the need arises. Placing the scheme within the rules would remove this flexibility.

In response to the Joint Committee's recommendation, we undertook a review into the overall response to migrant victims of domestic abuse, and we intend to publish the findings ahead of Report. Just to give an idea of the lengths we have gone to with this review, we examined 100 cases in which the claimant had applied for indefinite leave to remain on the grounds of domestic violence. We specifically looked at the length of time spent in the UK, and at whether the claimant had arrived on a partner visa or had formed their partnership after arrival in the UK. We also looked at the main providers of third-party evidence in these cases and whether or not they were being accommodated in a refuge with access to public funds. Gender and other characteristics were also recorded.

We gathered evidence from a range of stakeholders and held a number of workshops and discussion sessions, to obtain more detailed information and views about the difficulties that migrant victims face. Indeed, some of those meetings and the submissions from the organisations concerned are in the body of work from the past year.

I am pleased that the hon. Member for Birmingham, Yardley mentioned Women's Aid. It was not excluded from the review or any of our work on the matter. Indeed, it was warmly invited and welcomed. Those Welsh colleagues who are concerned that Wales should not be under-represented will be pleased to know that dial-in details were sent to Welsh Women's Aid as well. In those workshops, with all the organisations that we would expect, including Bawso, Amnesty, Southall Black Sisters and Step Up Migrant Women, we have had frank discussions about what they experience on the ground and what the women they look after face. The results of the review will be published before Report, but I want to set out that the Government have prepared, and continue to prepare, an intensive and detailed piece of work.

I fear that new clause 35 is based on a misunderstanding of the purpose and rationale for the DDVC and the domestic violence rule. They were and are intended to provide a route to settlement for migrant victims who hold spousal visas. They were designed in that way because the victims in question would, had the relationship not broken down as a result of domestic violence, have had a legitimate expectation of staying in the UK permanently. To compare that with the situation of someone on a visitor visa, such a person comes to the country without a legitimate expectation of staying in the country. I am afraid that the head has to rule the heart in this instance. We have immigration policies and, indeed, the Immigration and Social Security Co-ordination (EU Withdrawal) Bill is being debated in the Committee

Room next to this. We have to try to ensure that immigration policy is maintained. None the less, we need to ensure that there is support for victims when they require it, to help them escape their dangerous relationship.

Neither the DDVC nor the domestic violence rule was designed to support those without the legitimate expectation of remaining in the country. We are concerned that expanding the scope of both provisions would undermine the specific purpose that gave rise to them and introduce a route to settlement that might lead to more exploitation of vulnerable migrants or, indeed, of our immigration system.

Jess Phillips: I do not expect the Minister—or even you, Mr Bone—to be able to filibuster long enough to answer this question, to be perfectly honest, but what evidence is there under the current system, in whatever form and in relation to whatever visa, of women lying about domestic violence to get immigration status? Can I have that evidence, compared with the evidence for those who are turned away? My experience recently—and I respect the point that people sometimes use domestic violence legislation to break the rules—is that sometimes they use it to drive to Barnard Castle. *[Interruption.]* It is the truth, then. I understand why she thinks people lie.

Victoria Atkins: No. I am sorry—can I just try to bring the tone down? Thus far, we have managed to discuss this incredibly emotive subject in a responsible and constructive way. I shall try to continue to do that. I do not for a moment say that people who apply are lying. I absolutely do not say that. What I am worried about, and what I see with modern slavery, for example, is that the people who manipulate, exploit and take advantage will use every way they can find to do it.

Fay Jones *rose—*

Christine Jardine *rose—*

Victoria Atkins: I will give the hon. Lady an example, and then after I have developed this point I will give way to my hon. Friend the Member for Brecon and Radnorshire, and then to the hon. Member for Edinburgh West.

I recently had one of my regular meetings on the topic of serious violence and county lines gangs. Predominantly young men and boys are targeted by county lines gangs in what we call exporting areas—big cities—to go out to the county to sell drugs.

11.25 am

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

Adjourned till this day at Two o'clock.