

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PUBLIC ORDER BILL

Second Sitting

Thursday 9 June 2022

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Tuesday 14 June at twenty-five minutes past Nine o'clock.

Written evidence reported to the House.

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

not later than

Monday 13 June 2022

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The Committee consisted of the following Members:

Chairs: PETER DOWD, †DAVID MUNDELL

Anderson, Lee (<i>Ashfield</i>) (Con)	† McCarthy, Kerry (<i>Bristol East</i>) (Lab)
† Bridgen, Andrew (<i>North West Leicestershire</i>) (Con)	† McLaughlin, Anne (<i>Glasgow North East</i>) (SNP)
† Chamberlain, Wendy (<i>North East Fife</i>) (LD)	† Malthouse, Kit (<i>Minister for Crime and Policing</i>)
Cunningham, Alex (<i>Stockton North</i>) (Lab)	† Mann, Scott (<i>North Cornwall</i>) (Con)
Doyle-Price, Jackie (<i>Thurrock</i>) (Con)	† Mohindra, Mr Gagan (<i>South West Hertfordshire</i>) (Con)
† Elmore, Chris (<i>Ogmore</i>) (Lab)	† Vickers, Matt (<i>Stockton South</i>) (Con)
† Elphicke, Mrs Natalie (<i>Dover</i>) (Con)	Anne-Marie Griffiths, Sarah Thatcher, <i>Committee Clerks</i>
† Hunt, Tom (<i>Ipswich</i>) (Con)	
† Huq, Dr Rupa (<i>Ealing Central and Acton</i>) (Lab)	
† Jones, Sarah (<i>Croydon Central</i>) (Lab)	
Longhi, Marco (<i>Dudley North</i>) (Con)	† attended the Committee

Witnesses

Elizabeth de Jong, Chief Executive Officer, United Kingdom Petroleum Industry Association

Steve Griffiths, Managing Director, London Stansted airport, Manchester Airports Group

Adam Wagner, Barrister, Doughty Street Chambers

David Dinsmore, Executive Vice-President and Chief Operating Officer, News UK

Sir Peter Martin Fahy QPM, Chief Constable, Greater Manchester Police (retired)

Matt Parr CB, Her Majesty's Inspector of Constabulary, Her Majesty's Inspector of Fire and Rescue Services

Chief Superintendent Phil Dolby, West Midlands Police

Olly Sprague, Director, Military, Security and Police Programme, Amnesty International

Stephanie Needleman, Legal Director, Justice

Martha Spurrier, Director, Liberty

Public Bill Committee

Thursday 9 June 2022

(Afternoon)

[DAVID MUNDELL *in the Chair*]

Public Order Bill

2 pm

The Committee deliberated in private.

Examination of Witnesses

Elizabeth de Jong and Steve Griffiths gave evidence.

2.2 pm

The Chair: We are now sitting in public and the proceedings are being broadcast. We will hear oral evidence from Elizabeth de Jong, chair of the United Kingdom Petroleum Industry Association, and Steve Griffiths, managing director of London Stansted airport, part of MAG, the Manchester Airports Group. Welcome to our witnesses. This session will run until 2.45 pm. Please will the witnesses introduce themselves for the record?

Elizabeth de Jong: Hello. I am Elizabeth de Jong, the chief executive of UKPIA, the Petroleum Industry Association. We represent companies involved with oil refining, fuel production, terminal operations and petrol stations, some of which have been targeted by Just Stop Oil.

Steve Griffiths: Good afternoon. I am Steve Griffiths, the managing director of London Stansted airport, the fourth largest airport in the UK. I have been invited today as an airport operator to discuss the scale and impact of any disruptions to airport operations.

The Chair: Thank you. I ask Ms Jones to start the questions.

Q58 Sarah Jones (Croydon Central) (Lab): Let me ask both of you to describe your experiences with protests. It would be useful if you described the police response, what they were able to do and what happened as a result, whether you used injunctions and what that managed to achieve, and gave us the scale and a flavour of the challenges you faced.

Elizabeth de Jong: Our experience of protests until April this year was that they were mainly peaceful and occasional. However, their nature changed considerably in April; they have become more widespread, longer and more confrontational. Our main concerns include the safety of staff and protestors. There are significant safety risks, an impact on fuel supply, and increased costs.

In April 2020, 11 terminals were targeted for a number of days, and two forecourts suffered damage and were blocked. A significant number of arrests were made during that period. We followed the tweeting of Essex police, and halfway through April, they were talking about almost 500 arrests; some 12% of those arrested were arrested multiple times.

On the types of activities and the safety risks, there has been locking on, which is dealt with in the Bill. We have seen people lock themselves on, or attach themselves, to the top of stationary tankers, even when they are full, and when asked, they have not moved to empty ones, which would be safer. We have also seen locking on at height, which is when people attach themselves to machinery, pipes or vehicles high up, which means a risk of falls. People have even made their own stretchers to attach themselves to, which can be difficult to deconstruct safely. We have seen smoking on terminal storage tanks, with the safety risks that go with that. Cables have been cut on road tankers, which affects braking, and roads have been undermined—networks of tunnels have been dug under roads, affecting main and emergency access roads.

That causes great concern about safety. Refineries and terminals, as I am sure you can imagine, store potentially dangerous substances such as oil, other flammable substances, and substances that can cause chemical burns and can generate extreme heat. There can be a real danger of explosion and of falls from buildings. The activities on such sites are strictly regulated under COMAH—the Control of Major Accident Hazards Regulations 2015—and of course protestors are not following those regulations; they are putting themselves and staff in danger. There have also been impacts on fuel deliveries and costs to companies.

On what the police can do and what the response has been, the industry has increased security staffing at some sites. There is already fencing and closed circuit television, and there are inspections by operational staff. Some sites have increased security around the clock. However, security staff have limited powers; they can only ask people to leave. Companies have also taken out civil injunctions, which is an option open to them; a number of our members have done so. That is of limited effect, because they do not come with powers of arrest and they take time to put in place, which allows people to come back and target the locations while the injunctions are being put in place. We have encouraged local authorities to take out injunctions, which are a more powerful tool, but, again, they take time to put in place and are costly. During the protests in April, two were put in place, in Essex and Warwickshire.

Steve Griffiths: From my experience as an operator of Stansted airport, which is clearly very much a live operational environment where there are complex, high-risk operations, any protests pose a serious risk to human life—the lives of our staff, our customers, the travelling public, and the protesters—and cause major disruption to the operation.

Our last major significant event was back in 2017, and it related to a deportation flight to Africa. The protesters cut through the security fence around the airport, which ensures its safety and security, using bolt cutters, and breached the airfield. Fourteen protesters then locked themselves around a Boeing 767 jet, which was due to fly the deportation flight to Africa. The impact of that was that the runway was closed for approximately one hour. This was at night time, so there was no daytime visibility, and incoming and departing flights were grounded during that period. Approximately 25 flights registered delays during that hour, and 11 were cancelled, including the flight in question, which was due to fly to Nigeria. We estimated that about 1,700 to 1,800 passengers were impacted by that disruption.

The protesters were arrested by the police, but were ultimately acquitted. We understand from media reporting of the case that they were charged with intentional disruption of services at an aerodrome under the Aviation and Maritime Security Act 1990, but the court acquitted them because the offence requires some element of terrorist activity, which was not deemed to be present in this event. We understand that the Crown Prosecution Service charged the protesters with that offence because other offences that the perpetrators may have been charged with did not carry sentences that adequately reflected the seriousness of the circumstances that we experienced on that night—of forcibly gaining access to a security restricted live airport operation. That is the direct impact of the last major event.

Clearly, we support the right to protest at the airport, and we have designated areas, but this is about cases that infringe on parts of the airport outside those designated areas. I can talk only on behalf of London Stansted, but events have happened across UK airports.

Q59 Sarah Jones: Locking on is a new phenomenon, and very frustrating. Will anything in this Bill speed up the process of removing somebody who is locked on?

Elizabeth de Jong: Yes. I can see a direct reference to locking on. There are a number of elements in the Bill that will be helpful. These are new challenges for us, and the Bill makes a number of enhancements to mechanisms that will be available to the police. The police will, of course, give their view about whether they will help or not.

From what I have read, the Bill will give the police a power to arrest in a timelier and more straightforward way. The current way of giving powers through injunctions could lead to a patchwork of different injunctions in different places, and be confusing, which would mean that police felt less confident in making decisions. The Bill specifically refers to two things: locking on—that looks as though it will be potentially useful—and the definition of key national infrastructure; again, that would enhance the powers and make their use more practicable.

Q60 Sarah Jones: My question was more about the speed. It is interesting—and, as I think we all accept, a big challenge—to ask, “What is the right legislative response? What can we do through the law?” There were 500 arrests, as you say, so the problem was not that the police were not arresting people; they were arresting loads of people quickly, but you cannot speed up the process of getting the specialist to come and remove someone who has locked on. Even with an offence of locking on, you will have the same time problems when it comes to removing people. All those things will be the same; locking on will just be an offence that the police can charge people with, just as they have been charging them with aggravated trespass or criminal damage.

I guess my question is whether an offence of locking on—I think that it has its own problems because of the very broad way it is drafted—will be any more helpful than those 500 arrests that the police made; you are talking about people who just come back afterwards.

Elizabeth de Jong: My understanding is that the legislation will reduce the time and cost spent getting the injunctions that allow the arrests. It clearly says, “This is an offence. We don’t need to go through the injunction process.” The issue is the time it takes to get

the injunctions; that allows people to reoffend. There might be an opportunity for faster processing as well, but clearly local authority injunctions will allow court appearances to take place sooner.

Steve Griffiths: There is nothing I could add to that. I am really here to talk about the impact of disruption, and I am probably not qualified to comment intensely on the Bill; I leave that to the police.

Q61 Tom Hunt (Ipswich) (Con): This is really for Elizabeth. Which region was most badly impacted by the Just Stop Oil protests that we have seen over the past three months?

Elizabeth de Jong: The particular areas are Kingsbury and Esso Purfleet; it has been around Essex and Warwickshire. It has also been nationwide, but those are the current ones that have been focused on.

Q62 Tom Hunt: So the eastern region is up there, in terms of being the most impacted region.

Elizabeth de Jong: Currently, but the difference that we are seeing in these protests is that they are more widespread, both in number and geography. I think it will be, potentially, that other aspects of supply chains are focused on in the future.

Q63 Tom Hunt: With locking on, in terms of individuals locking on to tankers et cetera, roughly what proportion are employing locking on tactics, as opposed to just blocking key roads around depots, et cetera?

Elizabeth de Jong: I do not have an analysis of that available.

Q64 Tom Hunt: Do you feel that the police have been as interventionist as they ought to have been? Have there been occasions when you have been slightly frustrated that the police have not been more, for want of a better phrase, on it when it comes to intervening and moving on some of these protesters?

Elizabeth de Jong: I do not have an opinion on the police response. We have been working together with them, but I am really focusing on what would make their role easy.

Q65 Tom Hunt: Do you think that all of this disruption has in any way fed through to increased prices of petrol and diesel?

Elizabeth de Jong: It has had an impact on fuel deliveries. It has been hard to estimate that, but, for example, I can give you evidence that for the week ending 3 April, there was a 9% drop, week on week, in fuel deliveries. We have calculated that.

Q66 Tom Hunt: So, the chances are that that is likely to have an impact in terms of how much consumers are paying for petrol at the pump.

Elizabeth de Jong: I cannot equate that to an impact on cost; I can say just that there was an impact on deliveries. However, the costs of obtaining injunctions across our members and across the different sites, for example, have run into the hundreds of thousands of pounds—we estimate tipping over the £1 million mark. Our estimate for the cost of obtaining injunctions for local authorities is that they will also be spending that.

The cost of security staff has also been at the hundreds of thousands of pounds mark, tipping into the millions. There is an increase in the cost base, and a need to repair for industry, but I am not here to comment on prices at all; that is not something that we address.

Tom Hunt: Thank you.

Q67 Mrs Natalie Elphicke (Dover) (Con): To follow up on fuel distribution, there was certainly an impact in Dover and Deal. We had petrol stations running dry during that period. That really brings home the impact: people were unable to get the fuel that they needed to go to work and to school, and to get about. It has an impact on hauliers as well.

I want to explore the Stansted situation a bit more. You have your highly secure zone—that goes without saying for national infrastructure—and people break in through a security fence and close a runway. I think you said that 25 flights were grounded as a result.

Steve Griffiths: Yes.

Q68 Mrs Elphicke: What sort of impact do you feel that had in terms of security? Do you feel that the impact was not just to cause disruption but to affect the security of the airport?

Steve Griffiths: Yes, indeed. Obviously, the security of the airport is critical to its safe operation, as you said. We have practices and procedures, CCTV and patrols, as well as what we call a “critical” part of the airport for maintaining security. We know about the security that we experience just as travelling passengers; that is equally important around the whole perimeter of the airport.

It is very serious, and any situation like that requires our staff to respond to it as well as ensuring the continued safety of the operation of incoming aircraft and aircraft that could be departing at that time.

Q69 Mrs Elphicke: At what stage did you know that this was a political protest rather than a terrorist incident or similar? Was there any concern about the nature of the protest when your personnel saw people breaking into the airport?

Steve Griffiths: No. Obviously, we work with the local police, so we very much have a partnership between the airport police and Essex Police, and they look at intelligence and so on. All the intelligence suggested that it was a protest rather than terrorism.

Mrs Elphicke: It had a political dimension.

Steve Griffiths: Yes.

Q70 Mrs Elphicke: Finally, I am mindful of the Court of Appeal’s decision and its clear direction that there was no specific offence that could reflect the magnitude of the event. The Court reportedly said:

“We recognise that the various summary-only offences with which the appellants were originally charged...might...not reflect the gravity of their actions.”

I think that underlines the importance of the matters before us. At the Court of Appeal, Lord Burnett referred specifically to disruption “likely to endanger” the safe operation of the airport or the safety of people there. We have heard from your evidence that the actions that were taken were grave and had real impacts on the airport’s operations and security.

Steve Griffiths: Yes, they did indeed.

Q71 Andrew Bridgen (North West Leicestershire) (Con): Elizabeth, clearly there are two parts to the threat from protesters: first, if they gain access to your oil terminals—the one at Kingsbury, just down the road from my constituency, is the largest in the country—and secondly, if they cause damage to assets or disrupt access to your fuel depots. How are those situations currently treated differently in policing, how easy is it to get people off your premises once they are there on them, and how will the Bill help you to deal with those situations?

Elizabeth de Jong: We follow guidance produced by the Centre for the Protection of National Infrastructure. New guidance on the security of sites was issued in April by the Department for Business, Energy and Industrial Strategy, with the support of national counter-terrorism police and the National Police Coordination Centre. Lots of site security plans are already put in place using guidance and experience, and there are updates; that is continually being reviewed using the best available guidance. It is a tiered system, as people gain access and then further access into the site, but one of the points I wanted to make is that the sites are very large indeed. CCTV and fencing are already there, but it is very hard to stop a large number of people—

Q72 Andrew Bridgen: You have a very large perimeter, haven’t you?

Elizabeth de Jong: Large perimeters, and a large number of people who are determined to get in and willing to put their own safety at risk. Should security guards or other people want to remove them, they have almost no powers to do so, apart from asking them and pointing out that it is not safe. We have been relying on the police, and in my opinion, we need to make sure that the police have the powers of arrest in order to remove those people, for their safety as much as anybody else’s.

Q73 Andrew Bridgen: If there were an ignition of fuel at somewhere like Kingsbury, whether accidental or deliberate, with the huge volume of fuel that is kept there, what sort of catastrophe would that be?

Elizabeth de Jong: It would be a proper emergency catastrophe—explosions, fire, life-ending.

Q74 Andrew Bridgen: About how many acres is Kingsbury depot?

Elizabeth de Jong: I do not have that figure off the top of my head, I am afraid, but all the sites that have been targeted, all the areas of the supply chain—the petrol stations as well—are places that have the potential for explosions. Safe working is needed in those areas, and that is what we are very concerned about. In fact, petrol stations are one of the areas that are specifically not included in the new Bill. One of our asks is for that to be considered, and for the scoping of the Bill to be as wide as possible in order to include all aspects of the supply chain, because petrol stations could endanger the public—in fact, arguably more so than oil terminals. That would put staff as well as protesters at risk.

Q75 Andrew Bridgen: Steve, given Government policy regarding removals to Rwanda, do you see an increased risk to airports?

Steve Griffiths: Obviously, the Home Office determines those deportation-type flights and works with all of the UK airports. There is no doubt that that will become more public and more prevalent, and it does heighten the potential risk to us as an airport as well.

Q76 Mr Gagan Mohindra (South West Hertfordshire) (Con): I put it on the record that I am a former Essex county councillor, since Essex has been referred to a couple of times now. My first question is about the international picture. Do other countries have this issue, and how are they combating it? Do our police have the necessary tools in place when compared with international comparators?

Steve Griffiths: Certainly from my perspective, I do not feel qualified to answer that question, unfortunately.

Mr Mohindra: Elizabeth, do you want to give it a go?

Elizabeth de Jong: I have not researched that myself, but the companies we represent are international companies. If it would be of interest to the Committee, I could ask how that operates for them as well. Let me know if that is something you would like me to follow up on.

Q77 Mr Mohindra: Elizabeth, you referenced petrol stations earlier as a bit of a gap in what is proposed in this Bill. Are there any other aspects that you think would be nice to have as part of this Bill? It would be useful for us to flesh that out, because we are trying to create a piece of legislation that will be effectively future-proofed, so that we do not have to revisit it in the months or years to come.

Elizabeth de Jong: That is exactly what we would be seeking as well. Just in the same way as we have seen an evolution in the last year of the types of protest down and around the supply chain, we would like the drafting to reflect the continued evolution of protests and to cover as much of the supply chain as possible, and what the next target might be. In terms of “key national infrastructure”, the “downstream oil” sector is very useful to have. I think it will give the police confidence that this is an area where they can intervene and make arrests. But we would like the definition of key national infrastructure to be more specific and to include roads as well as buildings, to include vessels—tankers, for example—and infrastructure under construction. All these things are important to the supply chain, but also very important for the safety of the protesters, staff and the public. Specifically, as I have mentioned, petrol stations have been excluded; we think that they are important for safety as well.

Mr Mohindra: Thank you. Steve, is there anything from you?

Steve Griffiths: No, nothing to add from me, thank you.

Q78 Anne McLaughlin (Glasgow North East) (SNP): Much of what you have both described does sound extremely challenging. I understand that, but I am wondering whether you understand that many protesters are protesting because they have firmly held beliefs. I think we all agree that they should have the right to protest. Environmental campaigners’ concerns, for example, are that both your industries contribute to the climate crisis and, if more is not done more quickly, there will

be no oil and no airports for them to protest at or for you to manage. If we all understand that, what would you suggest they could do to protest in a way that is safe and non-disruptive but also impactful, because there is no point in protest if it makes no impact? What is the middle ground? What is the compromise?

Elizabeth de Jong: Steve, you have said, and I would agree, that we absolutely support the right to peaceful protest. We absolutely support the right to free speech. That is really important to us as a trade association. Free speech—debate—is very important for you as well. However, what we are looking at here is the impact on people’s safety. That is also very important.

Anne McLaughlin: I understand that, but I am asking about—

Elizabeth de Jong: Yes, I promise I will try to answer that. Our industry is vital to achieving net zero, and there is lots the oil industry is already doing, and is wanting to invest in, to be part of the solution. We are producing more low-carbon biofuels. We are delivering and manufacturing sustainable aviation fuels. We are running some of the biggest hydrogen and carbon capture projects in the country. We are delivering the electric vehicle charging network; we are producing lubricants for electric vehicles as well. Personally, we think dialogue is very important. That is the essence of our democracy. But we also support peaceful protests and free speech in all ways. But if we are focused on dealing with protests and spending money on protests, that money arguably could instead help continue the work that we are doing to achieve net zero.

Steve Griffiths: I would echo everything that Elizabeth has said. It is obviously important, from the perspective of the aviation industry, that the Government have set out a plan to achieve net zero carbon by 2050. That is a plan that all of the industry has signed up to. As the largest airport group in the UK, MAG has a plan to achieve that by 2038, which is 12 years ahead of the Government target. Again, contributions to further advancing that would only help our industry, and that is what we will be looking for. As we have said, we have no objections about the right to protest, but it should be done peacefully.

Q79 Anne McLaughlin: Thank you both for your answers. I am glad that you accept that there should be a right to protest peacefully, but what you both seem to be saying is, “They’re wrong; we are contributing to the solution.” I have no doubt that that is partly the case, but their firmly held beliefs are that you are not doing enough quick enough. They obviously have the right to protest about that. Other than just simply agreeing with you, what can they do to get their point across to encourage you to go faster? What can they do that would make an impact without disrupting and causing safety concerns? How could they do that?

The Chair: I think we are straying into the debate around net zero rather than the issue in hand.

Anne McLaughlin: What I am really trying to say is that they disagree with the answers that you have given me; if they have a different view, they must have the right to protest. How can they do that and make an impact, while dealing with the safety and disruption concerns we have talked about?

Steve Griffiths: I can only comment in a limited way on this. Advancing this subject is really about innovation, technology and research and development. Obviously, we have to be realistic about the step changes that we can make, which is why in the industry that I work in the Government have set out a very clear plan. I know that all parts of the industry are looking at ways to achieve that a lot earlier. At the heart will be design, research, innovation and technology—that will drive it. Those elements have to be at the top of the industry's and the Government's agenda if we are to achieve that.

Elizabeth de Jong: And creating the right investment environment for the investments and the innovation as well. It is that type of dialogue that can speed this along. Some 96% of energy used in the transport sector currently comes from oil, so to just stop oil would have quite catastrophic impacts on society and the economy, but there are plenty of ways to debate this and to look at the policies that are needed.

Q80 Matt Vickers (Stockton South) (Con): All the measures in the Bill aim to end the behaviour as quickly as possible when there is an incident and to deter people from coming back and having another go. When you think about the hardened, seasoned protesters in this field, who have plenty time on their hands to go gluing themselves to things on a regular basis, do you think they are sensitive to fines or do you think it is important that we look more towards custodial sentences for those hardened repeat offenders as part of the mix?

Elizabeth de Jong: I am afraid I am going to have to leave that for the police and those who work in that area who have studied what the best incentives are for people. We are definitely focused on how to make things safe in our industry and how our society can work more efficiently and effectively.

Steve Griffiths: I cannot really comment on that. It is really for the police to determine, but we obviously support their having the right tools because, at the heart of this, as Elizabeth has said, is the safety of the protesters, the general public and customers, as well as our colleagues. That is really important.

Q81 Matt Vickers: When you look at what is proposed in this Bill, are we going far enough? Is there anything that you would like to see added to the mix?

Steve Griffiths: I am here to talk about the disruptions; I cannot really talk about the policy itself.

Elizabeth de Jong: The areas we have focused on are the definitions of key national infrastructure. Locking on is important, and it is important that petrol stations are included. We do not have views on the other areas of the Bill, around stop and search for example. That is for people who have studied and are expert in what deters people or does not deter people.

Q82 The Minister for Crime and Policing (Kit Malthouse): I have a couple of questions. In response to Ms McLaughlin's point about protest, presumably the most direct thing these protesters could do is not buy your products—not drive a car, not use gas in their cookers, not fly on holiday. That consumer behaviour would have an impact on the way you run your businesses.

Steve Griffiths: That is clearly one obvious option, yes.

Q83 Kit Malthouse: I want to ask a little bit about pre-emption. You talked, Mr Griffiths, about the breach of your fence. Do you think it would have been helpful for the police to have the powers to identify and stop somebody and possibly search them on approach to the airport to see if they were in possession of, say, bolt cutters, and remove them before they were able to reach the perimeter?

Steve Griffiths: Yes, certainly. We work with the police on intelligence and they do a lot of scanning to try to look at risks that are presented at the airport, but certainly, having those facilities to stop people directly and search them would be helpful.

Q84 Kit Malthouse: Presumably, in both circumstances, your members now are much more attuned to the notion of hostile reconnaissance and the notion that that needs to be detected on a pre-emptive basis to get ahead of some of these protests.

Steve Griffiths: Yes, we have a very well-defined plan that is a joint plan between the airport, the airport police and Essex police. That is really around the seriousness with which we take breaches on the airport. We have to have a very clear escalation plan and very clear, constant monitoring in place, because the seriousness of the disruption it causes, and also the threat to safety, is significant to us as an operating airport.

Q85 Kit Malthouse: Ms de Jong, is that the same now with petrol dumps?

Elizabeth de Jong: Yes. Site security and risk assessment per se, given that we work in such a tightly regulated and potentially dangerous environment, are very much at the core of all operations throughout the downstream oil sector.

Q86 Kit Malthouse: Finally, for clarity, Ms de Jong, to confirm what I think you said a couple of times, during the Just Stop Oil protests, when they breached the perimeter of some of those places, there could quite easily have been a catastrophic and very large explosion.

Elizabeth de Jong: Indeed.

Q87 Sarah Jones: I have a couple of quick follow-up questions. You might not know the answer to the first one, but I am interested to know whether you were aware in either case of whether there was any police intelligence that the protests were going to happen before they did.

Also, there seem to be slightly different issues. The issue with the flight was a slight one-off, in that people were objecting to that particular flight going away. There is a particular problem, it seems, with people trying to block entire infrastructure programmes across the country. They are two quite different things and I think they need a slightly different response.

I want to confirm with you, Mr Griffiths, that the police arrested the people but that the issue was that the charge was not right. It was not that they were not arrested and taken away; it was just that the charge did not stick because the right charge was not there, if you see what I mean.

Steve Griffiths: Yes, you have the fact that the incident occurred in the first place and then, as you say, the perpetrators were arrested, but then the subsequent

charge fell apart because of, presumably, a gap in legislation, in that the route taken for prosecution did not stand up. On your first question, I do not have that answer with me today.

Elizabeth de Jong: I have some information on the first one. We received police intelligence about the attacks and that intelligence was broadly correct.

Q88 Sarah Jones: And was that helpful?

Elizabeth de Jong: It was very helpful indeed.

The Chair: If there are no further questions from Members, I thank our witnesses for the evidence. We will move on to the next panel.

Examination of Witness

Adam Wagner gave evidence.

2.44 pm

The Chair: We will now hear oral evidence from Adam Wagner, a barrister at Doughty Street Chambers. We have until 3.5 pm for this session. Will Mr Wagner introduce himself for the record?

Adam Wagner: Good afternoon. My name is Adam Wagner and I am a barrister at Doughty Street Chambers. I practice in human rights law and public inquiries, and I do a lot of work on protest law.

Q89 Sarah Jones: Hello. We have been round this process once already in recent times with the Police, Crime, Sentencing and Courts Bill; it is good to have you back here. It would be helpful if you could set out your view of this piece of legislation and what you think its flaws might be. There are some particular parts of the Bill that I want to ask you about, but it would be good to get your general sense. For the sake of the Committee, it would also be good if you could lay out what other offences the police use. One of the issues raised earlier is that they do not all involve custodial sentences, so it would be good if you could go through the main ones that the police use in the business of policing protests and what kinds of sanctions they have.

Adam Wagner: Okay. I will start with the general question about what I think of the legislation. It is important to frame this debate properly. In this country, our tradition is that protest is something that is permitted. It is not seen as a social evil; it is seen as a social good. A certain level of disruption is inevitable in any successful protest. That is how you get people's attention: you disrupt, and you put yourself in front of them. That is not a new thing; it is very old. It goes back to the suffragettes, who I am sure many people giving evidence will mention.

Every social movement in history that has a protest element has always used an element of disruption, and there will of course be times when disruption steps over the line into violence and such serious disruption that society will not tolerate it. At that point, the criminal law will intervene, and there is always an uneasy balance between where you put the line, because you accept that conscientious protest about important issues is something that democracy needs for the public to communicate directly to the rest of society and to you—the people who are in charge. That is always the context.

All the court authorities on these kinds of issues recognise that protest is disruptive, unruly and something that annoys people, particularly if they do not agree with the views. If somebody does not agree with a view, that is a very good reason to not allow them to be in charge of whether the person can express it. That is why it is very dangerous to start tinkering with a law because of views you do not approve of, because the next lot will come along and do the same for the views you do approve of. So we keep a level of tolerance towards protest—that is the way I would frame it.

For the most part, the mechanisms that the Bill puts in place essentially criminalise peaceful protest. That is what the Bill does: it criminalises peaceful protest in a way that has not been done before. It treats peaceful protest like knife crime, drug dealing or terrorism. I do not mean that metaphorically; I mean it directly. Serious crime disruption orders and terrorism disruption orders stop people doing something in future—those are the kinds of methods we have used to disrupt terrorism, knife crime, drug dealing and gang violence. I have been involved in lots of cases involving those kinds of orders. If the Bill is used by police—they will be under pressure to use it in particular instances—the end result will be lots more protesters in the criminal courts, in very long and complicated trials that involve looking at the proportionality of the protest in question, as we saw with the Colston statue case. But it will be 100 times more, because all these offences have a reasonable excuse—I can come to that. I think that is one thing you will see.

The other thing you will see is a lot more protesters in prison—and a lot more peaceful protesters in prison. I do not have any issue with, and I do not think human rights law has any issue with, violent protesters being treated as criminals—the European convention on human rights entirely accepts that violent protest does not fall under the protection of the right to protest—but all these provisions are about peaceful protest, and it will end up with hundreds and hundreds of protesters in the prison system. I see that from my own work. An increasing amount of protesters are going to end up in prison because of the injunctions. That is my general view, but I can talk about specifics.

Q90 Sarah Jones: In terms of the powers the police already have and the challenges they face, it would be helpful if you could set out whether you are content with the powers they have, what they can use and what sanctions they have. Do not worry if you cannot give an exhaustive list.

Also, we heard from previous witnesses about cases in which people have glued themselves to motorways in a dangerous way, and about people locking themselves on and tunnelling under things—doing things that are criminal and dangerous. That is the problem that the Bill is seeking to tackle: the small number of people who are repeatedly doing things that are dangerous for themselves and others. It would be helpful for you to explain how that marries with your view that the Bill will affect loads of peaceful protesters.

Adam Wagner: Hard cases make bad law, is the aphorism. I think that is true. I listened to a previous witness say that locking on is a new phenomenon; the suffragettes were locking on and Gandhi was locking on—these are very old protest methods. Anybody that

breaks into an airport or an oil refinery, or blocks a motorway, can be arrested and charged under existing criminal law. That is absolutely uncomplicated.

One of the misapprehensions about the Insulate Britain protests—I read it in the newspapers—was that the police could not arrest people until there was an injunction in place. That is completely the wrong way round. Injunctions do not give powers of arrest to the police; court enforcement officers gain powers of arrest from injunctions, but the police can arrest people for obstruction of the highway in the same way that they have been able to for a long time. There are all sorts of other criminal offences that can be used—aggravated trespass is the other catch-all one. When someone is on the road they can still be trespassing if they are not using it for a permitted purpose. Aggravated trespass applies to any private land, including airports, oil refineries and petrol stations.

In terms of dealing with the issue at the time and on the ground, the Bill is not going to make any difference at all. The police can go in and arrest people—there is nothing stopping them. They can use reasonable force to unlock people who are locked on. The police will have exactly the same powers to do that under all these new offences. The difference—to use a term that has come up—is the downstream. Instead of those people potentially going to prison for a bit, or not going to prison at all, they will end up going to prison for a long time. The clauses of the Bill create a culminative effect—it is like being a petty criminal: once you start and are in the criminal justice system, you get longer and longer sentences and everything stacks up, one after the other. The courts have more and more draconian powers that they can use against you. The Bill creates that culminative effect for peaceful protesters.

Q91 Sarah Jones: Can you explain what you mean by that? What do you mean by saying the Bill will end up putting people in prison? What do you think will happen? Will you speak to the specifics of locking on, stop and search and serious disruption prevention orders, and why they will end up with lots more people in prison?

Adam Wagner: A serious disruption prevention order follows the model of lots of other such orders in our laws, such as serious crime prevention orders, gang orders and drug dealing prevention orders. It is the same exact model. As drafted, a serious disruption prevention order allows a court a power if someone is convicted of any offence under the new offences.

For example, having superglue in their pocket would be an offence under the regulations, because it could be used for a lock-on. Arguably, too, a bicycle lock on their bicycle could be used for a lock-on. Once that is triggered and they get convicted of an offence, the court can then look at their background and, if they have been involved in a protest that even potentially might cause serious disruption, that is all that is needed—

“capable of causing serious disruption to two or more”—

and could trigger the power for the judge to impose an order of up to two years that prevents them from doing all sorts of things. They might not be allowed into a town centre for two years, or to associate with particular people, or they could be given electronic tagging requirements. Once that is in place, they could be dragged back in if they breach a requirement and be given a prison sentence as a result. It is a protest banning order, effectively.

In fact, there are two different kinds of order: clause 13, which is the serious disruption prevention order, and then another one, whereby a police officer—even if the person has not been convicted of an offence, but just so long as they have participated in a protest and the judge thinks they might participate in another or maybe take some superglue along with them—can prevent them from going into a town centre or associating with particular people. The orders can even be applied to organisations, so it is not just individuals; it could be a charity or a campaigning organisation. It is a really huge expansion of court powers against protesters.

Let me talk a bit about the psychology of some of the people I represent, who are some of the more hardcore protesters who are at the centre of a lot of these movements. They will not be deterred by this legislation. If we look at Insulate Britain, which I guess is on the extreme end of disruption versus expressing the right to protest—it is not directed; the people they were disrupting were not the people they were protesting against, which makes the courts the least sympathetic to those actions—a lot of them said, “Well, I will go to prison for the cause.” A lot of environmental and Black Lives Matter protesters—whichever cause you think of—will say, “It’s going to be a badge of honour to go to prison.”

The prison system will start to be full of those people. It will not deter them; the people it will deter are the people who are not willing to go to prison, but who will also not be doing anything illegal at protests. They will just not want to go along, “Because I don’t want to be caught with a bicycle lock. I have a bicycle outside; I don’t want to be caught with a bicycle lock. What happens if I get arrested because I have a bicycle lock? I didn’t know one of these orders allowed police to do suspicionless search.” It will deter those people; it won’t deter the people you are worried about or the previous witnesses were worried about. It will deter lots of other people who you are not worried about, but you should be worried about.

The Chair: We have limited time, so I will allow the Minister to ask his questions.

Q92 Kit Malthouse: I think we are clear on your view of the Bill, and I gather that you were clear on your view of the Bill on social media before you appeared. Those sweet likes are so gratifying, are they not?

I want to ask you a couple of questions. First, you seem to be quite happy for those who profess to be protesters to go to prison in certain circumstances. So, if someone glues themselves on to a fuel gantry, bringing themselves and others into danger, you are quite happy for those people to go to prison—the only question in your mind is for how long. I presume you accept that part of the role of sentencing is not just to punish, but to deter. In circumstances where somebody is persistently committing those offences, whether or not they are subject to the order that you talked about, would you not expect them to get increasing sentences as they reoffended?

Adam Wagner: The first thing I would say is that I have come here voluntarily. I did not come here to have someone be personally rude to me, and I really do not appreciate it. I do not understand the benefit of that to anyone.

The second point is that I am not happy for any protester to go to prison. That is the criminal law as it is. The question this Committee is asking is: does the

criminal law need to change to deal with the problems that the Bill is supposedly dealing with? I just do not think it does. If the aim of the Bill is to send a lot of peaceful protesters to prison, it will do that. By peaceful, I mean non-violent. Locking on to something is not a violent protest. It is disruptive and annoying for the people who are trying to do whatever they are going to do in the location the protester has locked on to, but it is a classic form of protest. It is something that has always been used. It is something that society generally tolerates.

If we want lots more people like that to go to prison, this is the Bill to do it. However, if you want to stop people blocking roads, oil refineries or fracking sites—whatever the cause at the moment is—this is not the Bill to do that. I can tell you that, because I know these people; they will continue doing what they are doing. The difference is that they will end up in prisons all around the country, and I am not sure that is a good look for the country.

Kit Malthouse: I understand. I apologise if I was rude before.

Adam Wagner: Thank you.

Q93 Kit Malthouse: I was trying to be wry; my apologies. I do not know whether you are familiar with Scottish law, but I want to ask you about the comparison with that. In Scotland, we are seeing fuel protesters being charged under what is called malicious mischief, which is an offence that attracts an unlimited sentence—subject, obviously, to judicial oversight. Presumably, you think that if that is being used significantly against protesters in Scotland, prisons there will similarly fill.

Adam Wagner: First, it depends on whether the police are charging under that. I have not really talked about the relationship between the police and the public. The police will have to think really carefully about whether they want any of the aggravation of having to recommend for charging people who are not violent criminals, but are, in fact, peaceful protesters expressing their views.

Secondly, you cannot guarantee at all that the judges will send people to prison. There has been a step change through Insulate Britain. I have acted in a lot of these contempt cases—where people breach injunctions. The big difference with Insulate Britain is that these people are being sent to prison, and the courts' reasoning, as I said, is that the protest is not directed at the social evil that the protesters are protesting. They are blocking the highway, and not blocking anybody who is insulating or not insulating anything. That is why they are sending people to prison.

However, what the judges have not done is send to prison people who, like my clients, were protesting at the entrance of a fracking site in Blackburn at Preston New Road, or people protesting on the HS2 line. The courts have said very directly: "We tend not to send people to prison for that." It is quite possible that the courts will not oblige. Who knows? The powers will be there.

Q94 Kit Malthouse: This is the final question from me. We are seeing an increasing use of civil injunctions in these circumstances where protesters are going to prison. In your view, are there more protections for the individual through the criminal courts than through the civil courts? If you were acting for a protester, would you rather be subject to criminal or civil proceedings, from the point of view of civil liberties and protection of the individual?

The Chair: A short answer, Mr Wagner, because we are in the final minute.

Adam Wagner: It is a mixed bag. You might end up with a judge who is not very used to the criminal law, because a lot of them are in civil courts, but you also might end up with a whopping cost order at the end of it. For some of the cases I have been involved in, it has been tens of thousands of pounds. It is a mix, but civil injunctions have their own problems more widely.

The Chair: That brings us to the end of the time allotted for the Committee to ask questions of you, Mr Wagner. I thank you, on behalf of the Committee, for your evidence.

Examination of Witness

David Dinsmore gave evidence.

3.5 pm

Q95 The Chair: We will now hear oral evidence from David Dinsmore, executive vice president and chief operating officer at News UK. We have until 3.25 pm for this session. Mr Dinsmore, could you please introduce yourself for the record?

David Dinsmore: I am David Dinsmore, chief operating officer at News UK. For the purposes of this, News UK is the owner of Newsprinters Ltd, which prints a lot of the newspapers in this country.

Q96 Sarah Jones: Thank you for coming. Do you want to begin by telling us about the protests you have been affected by? What happened, how did it all progress, what did the police do, what offences were people charged with and what happened at the end of it?

David Dinsmore: This started on the evening of 4 September 2020 and continued to midday on the 5th. We have three print sites across the UK: one at Broxbourne to the north of London, one in Knowsley in Merseyside, and one at Eurocentral, between Glasgow and Edinburgh. At the Eurocentral site, there was a small, peaceful protest that broke up very quickly and did not get in the way of any of our business. However, at both Broxbourne and Knowsley, starting at about 9.45 pm, a collection of vans, boats on trailers and a bamboo superstructure were put in place at the exits to the plants. In the Broxbourne case, 50-plus people got on to those structures, many of them locking themselves on. At Knowsley, I think the number was about 30. Certainly, there were 51 arrests at Broxbourne, and 30 arrests and 28 charges at Knowsley.

The police were called immediately and were on the scene within half an hour, but they did not start removing people properly until 4 am at Broxbourne and 11 am at Knowsley. Both sites were finally cleared at midday on the 5th. This was a Friday, into Saturday. Saturday is the biggest newspaper sale of the week. Between *The Sun* and *The Times*, we would normally expect to sell about 2 million papers that day. We also print for *The Daily Telegraph*. We print some of the *Daily Mail* and some of the *Financial Times*, and we also deliver a direct-to-consumer service, although we do not print them, for *The Guardian* out of the Broxbourne site, so you will see that we are at the heart of the news industry in the country, whatever your flavour may be.

All the exits were blocked, which meant that all our trucks and drivers were blocked inside. Although we printed the run of about 2.5 million papers, they all had to be pulped. We had to use other print sites around the country to print those newspapers, and we delivered from them. The net result was that we lost a significant sale, as we did not get to many newsagents until past midday. The cost to us as a company was about £1.2 million. I would say we had 155 staff who were trapped on site until midday the following day, and we still have senior staff attending court hearings. They have had to block out of their diaries about 150 man/woman days—they are not having to attend court, but there is definitely serious disruption.

The final point I would make is that those 51 people at Broxbourne were all charged under obstructing highways, and those at Knowsley were charged under the aggravated trespass legislation. Some of the people at Knowsley have been found not guilty because it was not clear whose land they were trespassing on, and at Broxbourne, most people who have been found guilty have been given conditional discharges—costs of £150. One of them even glued himself on to the court table and still got a conditional discharge.

It feels to us to be a major, serious and co-ordinated attack. It caused considerable material disruption and continues to do so. The legislation is not in place to provide a deterrent to this. There is not even a catch-all law that people can be charged under, even if they do commit the crime. It felt like we were powerless to do anything other than work around this huge disruption, which had a massive impact. There is another impact worth mentioning. We go to wholesalers, who were hugely disrupted, and then we go to 44,000 retailers, who were similarly disrupted. That ends up with 2 million or 3 million customers who cannot get their paper when they turn up to buy it in the morning. The disruption to freedom of speech and our democracy in this instance was huge.

Q97 Sarah Jones: You mentioned that the police did not start removing people straight away and that there was a delay. What happened? Why was there a delay?

David Dinsmore: My understanding is that you need specialist teams to remove protesters who are locked on at a height.

Q98 Sarah Jones: What were they locked on with?

David Dinsmore: It was chains. At Broxbourne, they brought a purpose-made bamboo super structure, which they were able to erect at speed and put themselves on to.

Q99 Sarah Jones: There is a bit of a shortage of specialist teams. That is something that the inspector has flagged in his report. If they had been available, some of this disruption could have been minimised, because they would have acted quicker.

David Dinsmore: We call it the nightly miracle that we get from literally a blank sheet of paper at 9 o'clock at night to 44,000 retailers at 6 o'clock the following morning around the country. While I like the aspiration, the idea that we could get specialist teams there and remove blockages and get all that cleared without having significant disruption to the network and that delivery is, I think, pretty ambitious.

Q100 Sarah Jones: My only point is that it would have sped things up if that delay, which you pointed out at the start, had not happened. You could have got things moving quicker, so that needs addressing.

David Dinsmore: Indeed.

Q101 Anne McLaughlin: As MPs, we have the opportunity every day to express our views, and the media has an even greater opportunity to do that. You have said yourself that you are a proponent of freedom of speech, so how should the ordinary woman or man in the street make their views known? These might be views about the Black Lives Matter demonstrations or about the fact that black women are four times more likely to die in or just after childbirth, and environmentalists are worried about the very future of the planet—

The Chair: We cannot go into the detail. The concept of how a protest can be taken forward is, however, a legitimate question.

Q102 Anne McLaughlin: How can those people and others make their views known without being criminalised?

David Dinsmore: News brands are a very good channel for campaigning. We would see ourselves as giving a voice to the voiceless. One of the ironies of this particular protest was that on page 10 of *The Sun* that day, there was a piece from David Attenborough about exactly what Extinction Rebellion were campaigning on. They were going after one of the vessels that would probably be a good way of disseminating protest and counter-voices. Newspapers have campaigned legally and peacefully for centuries on many issues successfully and got law changes. If we want to go into the details of the great *Sunday Times* investigation campaign on thalidomide, I think there are many routes through which you can get outcomes that do not require the law to be broken.

Q103 Anne McLaughlin: I am not sure that your organisation is known for campaigning alongside Black Lives Matter people, for example. However, are you suggesting that the only legitimate way for the people that I mentioned to protest is either through us as MPs or through yourselves as media outlets? Let us face it: that means that you have to agree with them or we have to agree with them. How do they make their own voices heard? How do we empower them without causing the disruption that you talked about so that they can make an impact?

David Dinsmore: On the Black Lives Matter issue, we have, as an organisation, carried a huge amount of coverage. We have done things explicitly and internally on diversity. It is something that we do take very seriously. *The Sun* has recently run a series on Black History Month, et cetera, et cetera. I will not go into the detail, but I can give you much more on what we do as an organisation on those kinds of issues.

There are many, many routes to protest in this country. I am just giving you the specifics around our particular route. There are petitions and social media. There are many ways in which you can get a story, a campaign or a point of view across without disruption and breaking the law.

Q104 Andrew Bridgen: To be provocative, this is a Bill to protect national infrastructure such as fuel terminals, roads, railways and airports, and I am giving you a

platform to make a pitch. Why is your industry worthy of this protection and not people who deliver bread, milk or toilet rolls? Why your industry?

David Dinsmore: I think the best example we have got is the pandemic we have just lived through and the requirement for quality, trustworthy information. That showed how vital and valuable that is. We, as professional journalists, provide that information on what used to be a daily basis and is now a minute-by-minute basis, and the public need that more than ever.

Q105 Andrew Bridgen: But surely most of that is delivered online now.

David Dinsmore: But it could be just as easily threatened by this kind of protest.

Q106 Mrs Elphicke: I want to follow up on that very point. On a number of the other disruptions that we have seen, what is disrupted cannot be delivered in another way: the roads, ports, fuel and so on. But, as you say, minute-by-minute news is doing its stuff. If I understand the reason that you were targeted, it was that there was a view about what the political representation of the group was, rather than what was necessarily going on at the plant itself. I think you mentioned *The Guardian*, among other things. Do you think that the measures should be widened to give greater protection to organisations that are targeted, not because of what they are doing but because people just want to disrupt that business, organisation, or person's life to make a political point in an unacceptable way?

David Dinsmore: I do think that the way the law is structured protects the rights of the few against the rights of the many. That feels to me to be anti-democratic. So, without going into the specifics of it, yes, I do think that. On that point of "you can get it online", there is still a significant cohort in the community—principally older readers—who cannot or do not get it online, and do get their news in print.

Q107 Kit Malthouse: I want to underline that point. Do you believe that the reason you were targeted was the political and social posture of your publications, and that those protesters were effectively trying to silence your point of view or the point of view of your publications?

David Dinsmore: I do not know if we know for a fact that that is the case. However, certainly, in a lot of protests that we see—and believe you me, we see a lot of protests—an anti-Murdoch element always comes out. We are big, grown-up girls and boys, and we deal with most of that in our daily work, but on that occasion, the level of disruption caused was well beyond what would be acceptable.

Q108 Kit Malthouse: In that specific protest, was there no publicly declared reason for the protest?

David Dinsmore: Apart from the fact that it was Extinction Rebellion, I would need to go back. I think there was a lot of assumption about what it was against—I think they did some tweeting at the time, but I will need to come back to you with the specifics around what was actually said and claimed at the time.

The Chair: Do any Members wish to ask further questions? On that basis, Mr Dinsmore, I thank you for your evidence.

Examination of Witnesses

Sir Peter Martin Fahy QPM, Matt Parr CB and Chief Superintendent Phil Dolby gave evidence.

3.23 pm

Q109 The Chair: We will now hear from Sir Peter Martin Fahy QPM, a retired police officer and former chief constable for Greater Manchester police, Matt Parr CB, Her Majesty's inspector of constabulary and Her Majesty's inspector of fire and rescue services, and Chief Superintendent Phil Dolby of the West Midlands police. We have until 4.10 pm for this session. I will begin by asking the witnesses to introduce themselves for the record.

Sir Peter Martin Fahy: I am Peter Fahy. I was the chief constable of Greater Manchester police and, before that, the chief constable of Cheshire constabulary. I was a police officer for 34 years and a chief constable for 13 years.

Matt Parr: I am Matt Parr. I am one of four of Her Majesty's inspectorates of constabulary. My focus is primarily on the Met and non-Home Office forces. In specialism terms, I look at such things as counter-terrorism policing and, in this case, public order.

Phil Dolby: Good afternoon. My name is Phil Dolby. I am a chief superintendent for West Midlands police and I am a trained and accredited tactical public order/public safety commander and have been for some time, and I have been through quite a few adventures.

The Chair: Thank you. We will begin with a question from Wendy Chamberlain.

Q110 Wendy Chamberlain: I fear my own policing time is very much in the minority here. Thank you very much to you all for your time this afternoon. This morning, we had in front of us Chief Constable Noble from Staffordshire police, who is the National Police Chiefs' Council lead. One of the questions that I asked him—actually, it was one of the topics he raised—was specifically around policing by consent. I am keen to get your views, first on how far you think the Bill strikes the right balance, and secondly on whether you think there is a risk that this increased potential criminalisation of peaceful protest will change that balance from the perspective of policing by consent. Sir Peter, perhaps I could start with you.

Sir Peter Martin Fahy: The first thing I would say is that there is a threat to public confidence in policing from the police not being seen to be effective when they are dealing with issues like those we have heard about—issues like the Insulate Britain protest—but there is a danger that this Bill is trying to produce the wrong solution. The problem we have, as you heard from the gentleman from News UK, is that we do not have a standing army of police officers in this country. We are not like France, Spain and Italy, which have paramilitary police forces. If this had happened in France, they would have turned out the CRS very rapidly. They are very highly specialist and trained: they would use water cannon, they would probably use rubber bullets, and essentially the French population would accept that level of force. Thankfully, we do not live in a country like that, and the trouble is that when these events happen—I had a similar thing in Cheshire, with milk

protests outside Morrisons and Tesco—in the middle of the night, it is extremely difficult to get together enough officers to safely disperse that protest. If anything, that has got far worse, because in those days we did not have everything filmed and on social media and all those things.

Essentially, it seems to me that we have three problems. The first is the inability to get officers quickly together, with the right equipment—I would like to be able to move lorries, vans and stuff like that quickly—because that is not how British policing is set up. The second issue is that you then have to clear and arrest people, and the trouble is that the rules on bail are very narrow. In most cases, the police have to release that person on bail, which makes them free to go back and rejoin the protest. Even if you are able to get them to court immediately, the court will probably bail them out, because they plead not guilty and are back out on the street again. That is essentially the problem: they are able to keep on going back and repeat their behaviour.

Q111 Wendy Chamberlain: My understanding is that this Bill does not change that.

Sir Peter Martin Fahy: No, it will not deal with any of these three practical issues unless you address the issues of a lot more police officers being available; the public appetite for those officers to be able to use force, confident that the public, the media, and even people like the Independent Office for Police Conduct will support that use of force; and court procedures being able to deal with that and, if necessary, keep people in custody if they are persistent in going back. Just having more powers does not really solve any of those practical issues. Some people will be deterred by harsher sentences, but we know that a lot will not be.

On the other hand, part of that is absolutely that there is a danger to public confidence. That is really critical. I just visited Westminster Abbey and saw the statue of Sir Robert Peel, who laid down some remarkable principles of policing way back in the 1820s. It was very much about the police being impartial, acting under the rule of law, and not seeming to follow any particular initiative. There is absolutely a risk in this. Most protests are short-lived and move on very quickly. We have talked largely today about national protests, such as those on the M25, where there is not really a local community, but most protests and the most difficult protests are often very local protests about things like fracking and road developments, where there are very strong local public emotions. Yes, there may be some outsiders who join it, but most of it is very local people. If the police are involved in gathering intelligence around those people and criminalising them in a way that those local people do not think is fair, and it destroys their confidence in what their local police force is there to do, there is absolutely a risk in that.

Very quickly, I found the Sarah Everard vigil that Matt did a review of interesting in a way, because most of the police service were really clear that that gathering was illegal under the coronavirus regulations. The inspectorate did an inspection and said, “No, it was a very good policing operation done very well.” It didn’t matter. Media, most politicians and public opinion said, “No, that was wrong”, on the basis of two images that ended up on the front of the Sunday newspapers. That is the difficult environment that police officers are operating in, some of them very junior and without the

chance to have a great deal of training, and dealing with very complex issues, such as more legislation, more powers and more definitions of what is serious disruption, whether something is national infrastructure or not and whether something is the highway or private ground. Those are difficult issues for individual police officers, even inspectors, to make sense of in the heat of the moment, with strong emotions and the potential need to use force on people.

Q112 Wendy Chamberlain: Regardless of rank, the first police officer there is in charge.

Sir Peter Martin Fahy: Yes. We cannot be naive: the training level for police officers is still very poor. There is no formal qualification for superintendents. They do their best, but we put them into very difficult situations with complex consequences if they get it wrong.

Q113 Wendy Chamberlain: Is abstraction, for both training and deployment, a critical issue in terms of how the police might need to implement the Bill?

Phil Dolby: Certainly from a West Midlands police perspective it is extremely difficult when we have a protracted protest, because all of those cops come from the normal, business as usual police, often at the front end of demand, as opposed to detectives or safeguarding officers. They are the first response and are often the ones trained to be ready to police such events. The opportunity cost, as well as the financial costs, can be significant.

The British model of policing of protests in the last 10 years has matured and advanced. There is more to do, but work has been done on balancing the rights of all; trying to make sure that it is seen as a community issue and not just a policing issue, so the officers do not come into an area and then leave, and how that affects the community; and protest liaison officers who are specialists in how to engage and try to negotiate before we use force.

Q114 Wendy Chamberlain: To focus on the 2021 report, “Getting the balance right?”, part of the training and abstractions piece was a shortage of people who had the specialist training required. Has that changed?

Matt Parr: I suspect I am here because I wrote not just the report on the Sarah Everard vigil but the report you mention, at the Home Secretary’s request, on what was then a series of proposals, some of which have made their way into the Bill and some of which have not. That report covered much more than legislation: it made the point that getting the legislation right is not a panacea. A dozen or so recommendations were made in the report, and they covered issues such as greater expertise, increased training, better intelligence and more debriefing afterwards. The problem is not solved by legislation. It is solved by a mixture of legislation, greater training, awareness and preparation for decision-makers and police.

Q115 Wendy Chamberlain: And intelligence, in terms of preparation, probably.

Obviously, your report from 2021 considered protest banning orders, which was something suggested by the Met. Your report stated that

“such orders would neither be compatible with human rights legislation nor create an effective deterrent.”

What are your views on the serious disruption orders in the Bill, given what you have said previously?

Matt Parr: I can only comment on what we said in the report. We looked at them and at what the Home Office said about a protest ban at the time. It opposed a ban, saying that it

“essentially takes away a person’s right to protest and...would very likely to lead to a legal challenge...Consequently, we believe it unlikely the measure would work as hoped.”

The report agreed. We said:

“We remain unconvinced that such orders would either be compatible with human rights legislation or create an effective deterrent.”

We supported many of the other measures, some of which have not made it into the Bill.

Wendy Chamberlain: We shall find out from the Minister why he has changed his mind.

Q116 Sarah Jones: Thank you all for coming: we really appreciate it. Sir Peter, obviously we do not want a French model—I do not think the British public would have the appetite for change that would be needed if we were to police slightly differently. But we do potentially need more resources in this area. Do you have a sense of the appropriate level of resourcing and training, and who should police protests and how they should be trained? Do you also have any thoughts on the real challenge that we have heard from large infrastructure organisations that are being disrupted a lot—people gluing themselves to things and causing damage? What more can we do to deter those people or to deal with them once they are in place?

Sir Peter Martin Fahy: You mention the level of resources. Certainly, when you look at the number of officers per head of population in the UK roughly compared with France, Italy and Spain, you see that we have about half the number that they have. Why is that? Because they have national police forces and paramilitary police forces that essentially are part of the military, live in barracks and are able to respond in that militaristic way. That is not our history whatsoever and I would absolutely not want it to be, but it possibly gives you some indication of the level of resource.

Even if the chief superintendent had double the number of officers, I am not sure that he would necessarily want to put them into this form of policing, because he is absolutely right that when officers had to be on motorway bridges at the time of Insulate Britain to try to be available to clear the protests, they were officers who would have been investigating rapes, burglaries or whatever. There is a practical issue here: could we ever have the level of resources to be able to effectively—? The fact is that the protesters will always be fleet of foot than the police, because they have the element of surprise.

In terms of what can be done to help people like Newsquest, Morrisons and other people I have dealt with who were absolutely very concerned about the future of their businesses, for me it is about being prepared to look at issues like bail. In the more immediate sphere, it is for the courts to be able to keep people in custody, rather than having to wait for a court case a few months down the line, or for one of these particular orders.

I would still doubt whether the appetite would be there—the judicial appetite. Police officers are very wary, and you heard the exact reason for that from Newsquest: when cases get to court, the judiciary or the magistrates often give out very minor sentences—whatever

might be allowed in the legislation. They find, as happened with the Sarah Everard case, that higher courts then disagree and bring in human rights legislation, or bring in a different interpretation that is in the legislation, which then completely takes the legs of the police from underneath them.

That can only really be covered partly by legislation but essentially by judicial practice, because you can bring in all the laws you like—it will not actually solve those practical issues that the police face. There is also a real difficulty with definitions. This Bill talks about “protests”. Previous legislation, such as the Public Order Act 1986, talks about “gatherings”. We seem to have brought in this word “protests”, and I am not sure there is a legal definition of what is a protest.

The 1986 Act uses the phrase,

“serious disruption to the life of the community”.

I dealt with a really difficult protest in the centre of Manchester, which essentially put the Jewish community and the Muslim community at odds. I actually contacted the Home Office and said, “Please can you tell me the definition of serious disruption to community life?” They said, “The legislation’s never been used. We can’t tell you.” I was left wondering whether I should go around the shops of Manchester and try to work out whether their takings were up or down as a result of the protest.

With words such as “serious disruption”, on the face of it, yes, they are common sense and everybody knows what it looks like. In reality, however, when it gets into the courts that is exactly where the lawyers make their money from, but it absolutely undermines the police action and seriously means that police forces may be sued for unlawful arrest, and officers may be more liable to receive complaints because the conviction was not secured. It is a really complex issue, as Matt has said, and it needs a range of things, but just having more legislation without dealing with those other issues—you would certainly need an absolutely huge investment in training.

That would be my concern about this legislation. It is quite complex legislation. How, for instance, are West Midlands police supposed to train that, with all the day-to-day of policing? There is no time in policing for training. Again, those officers who are going to be on training courses have to be taken away from other duties. In my time, in my early stage there was very little change to the law. It is now changing almost month by month, and trying to keep police officers—who, with due respect to them, do not have the sort of professional background on how to interpret legislation—up to date with that is really difficult, because we are putting them into a totally different scenario, in terms of their level of accountability and the level of transparency that has now come from mobile phones and social media.

Q117 Sarah Jones: Thank you. Mr Parr, we have talked about your report many times in Committee and in Parliament, and what the definition of “a modest reset” is in terms of the powers and how it works. It would be helpful for the Committee if you could just clarify which bits of this legislation you looked at and what you thought. I might not have heard the answer to the question of which of your many recommendations have been implemented, and what the progress is on that front.

[Sarah Jones]

The third question is just about any thoughts you might have on things in the Bill that you have not looked at. You might not have had thoughts because the Government have not asked you to do a report on it—I think I am right that they have not asked you. Do you have any thoughts on things that you have not looked at before?

Matt Parr: I will deal with the easiest one of those questions first. The policing response to our report has been possibly the most professional and thorough response that I have seen in any report I have done in six years as one of Her Majesty's Inspectors. The then National Police Chiefs' Council lead picked it up, gathered a group together, and it has been a model of how policing as a whole should respond to a report. That has been really good. We have not been back to inspect, but I am pretty confident that progress has been made against every recommendation we made. I think they have almost all been ticked off. That is very encouraging. That is not standard fare with reports from us, sadly.

On your point about what bits of the legislation we looked at, we were asked to look at five changes. The history of this is that in 2019 the Home Secretary wrote to the commissioner of the Met, and the commissioner then wrote back with a series of 19 potential changes to the law. There was a big roundtable involving the Home Office and lots of people in policing in mid-2020. After that it was decided that they would take forward five. We supported all five of those—with a little bit of teeth-sucking about a couple. Generally, we thought that they all had the potential to improve the efficiency and effectiveness of the policing of protests, and would help achieve the “modest reset” I referred to in the report.

The Bill contains one of those changes, and that is the one about extending stop and search to look for lock-ons. It contains other changes that were not in there: obstructing major transport works; interference with key national infrastructure; serious disruption prevention orders, which we have already mentioned; and, lastly, lowering the rank in the Met for authorisations.

On extending stop and search, we said that because of its preventive nature it has the clear potential to enhance police effectiveness. It would also act as a deterrent. We recognised it was controversial, and we registered concerns about modelling it on current section 60 legislation—we thought that was potentially problematic. It is trying to achieve two very different things. We were nervous about a potential effect on minorities, and therefore we would like to see strong safeguards around that.

Finally, we said there must be appropriate thresholds and correct authority levels. I think the Bill says inspector, which is probably as low a rank as I would want to go. However, in general we remain supportive. There was broad support for the stop and search proposal from across the National Police Chiefs' Council, and policing generally. Some people raised some difficulties, but we concluded:

“our view is that, with appropriate guidance and robust and effective safeguards, the proposed stop and search powers would have the potential to improve police efficiency”.

I have mentioned that we were not supportive of SDPOs. We did not really look at the others. I will touch on changing the minimum rank of assistant commissioner to commander in the Met. That strikes me as entirely

pragmatic. If you look at the Met, the real expertise in public order tends to be at commander rank, rather than above, where people get a bit more generalist. The deep professional experts in London, in my experience, are the commanders. That strikes me as perfectly sensible. The other two changes we simply have not looked at. I would say that they strike me as consistent with the aim I was in support of. Currently, the balance is not being got right on a regular basis; the level of disruption between those who have a right to protest, and those who are bystanders and affected by protest, is not in the right place. Those changes strike me as consistent with resetting that balance.

Everybody I talked to in the course of this inspection or since—every police officer and everybody involved in this—absolutely recognises the right to protest. There is no question about that. Frankly, I think some of the criticism of the Bill, and some of the interpretation of it, goes too far. It is not a police state.

Q118 Sarah Jones: Do you mean this Bill, or previous legislation?

Matt Parr: Both. Any changing of where the pendulum sits does not automatically mean the introduction of a police state. To me, they look like sensible measures to redress the balance. I note that the Government's note accompanying the Bill links to a YouGov survey that shows where the public are on this issue, and those findings were entirely consistent with the survey we did as part of the Bill. To be honest, I was quite surprised at the time, but the YouGov poll is in exactly the same place.

Q119 Sarah Jones: I was talking to your police and crime commissioner, who was singing your praises at some other event, about how well you have managed lots of protests over a long period of time. You have managed to talk people down, to get people to change behaviour and to come to a sensible agreement about somebody who had been there for a short period time moving on. You have obviously deployed the powers that you have, and the persuasion that you have, effectively. Can you talk to us a bit about what you do, how that works and how you managed protests in the west midlands without too much disruption?

Phil Dolby: No one protest is the same as any other, even if it might be about the same cause. Some of the most challenging ones we have had have not necessarily been Extinction Rebellion or High Speed 2. The issues in Gaza led to some go-slow protests that were going to churn up the city, which I had to deal with.

Another protest was in the paper a few years ago. A school was hoping to do a teaching element about same-sex relationships, and some of the local Muslim community were upset about that. We have also had Sikh tensions at the Indian consulate general, the Kisan protests and so forth. Sometimes you can start your tour of duty and something appears on Al Jazeera—suddenly, you can feel the tension rising during that same tour of duty.

The first thing is very much: what relationships do we have with communities before there is a protest? What kind of neighbourhood local policing service do we have? What is our community engagement across the spectrum of age, ethnicity, communities and so on? That is the most important. One of the most important briefings I give to everyone—including protesters—at

the beginning of any operation, be it pre-planned or spontaneous, is always about the style and tone of what we are about to do. That is about being a fair service that is not afraid to make decisions when it needs to.

I will give you a couple of quick examples, starting with when we had the go-slow. Like most cities, Birmingham has a ring road, and it does not take much for that artery to suddenly be blocked, which means that nobody is going anywhere. We had a protest about Gaza whereby they were going to do a go-slow with their vehicles and do a circuit around the city. Because it kept moving, we tolerated that. We did some traffic management around it, kept the city moving and made sure that really important things, such as hospitals and so forth, were not affected. They then went for a second lap, and that was where I had a threshold with a gold commander who had given me a strategy that said, "That's enough now, because everyone else in the city has the right to peaceful enjoyment of the transport system and to get around."

We currently have a power under section 12 of the Public Order Act 1986—this goes to Sir Peter's point—that already has the term "serious" within it. There is a test called 3DI—serious damage, disorder, disruption or injury—but the definition of "serious" is still quite open to interpretation. You also need to have an organiser. During the pandemic, people did not want to show that they were organisers, because they would then be potentially prosecuted under the coronavirus regulations. That has kind of stayed. Before then, people were quite happy to say, "I was the organiser," but that is less so now.

The go-slow had no clear organiser, but through the CCTV around the city, I was able to see who the organiser was. There were probably about 200 vehicles involved in it, and I just gave a warning about the police's power to who I was evidentially satisfied was the organiser. I negotiated and said, "Look, I've got this power. It's ready, and here it is. Do you want to carry on, or can I encourage you to stop? You have had your opportunity, and you need to move on." There was a negotiated approach that I thought tried to keep the balance for everyone.

Similarly, Extinction Rebellion recently blocked a fairly minor road. We were a little confused about the road they chose. If we had been doing it, we would have chosen a different one. They had a tactic whereby instead of staying in the middle of the road all the time, they would use the pelican crossing but let the traffic stop by the traffic furniture. They would then occupy the road for about five minutes and when the traffic built up, they would move away. That was an interesting application of the law but, again, what we did was start negotiations with them.

We have our protest liaison teams, and there is a five-step appeal that officers go through, which we document and fill, giving every opportunity for the protesters to reach the decision themselves. Eventually, I said, "Okay. There is a power here to stop you. This is an unlawful assembly because it is now causing serious disruption. There's a children's hospital that is starting to be affected, so now that's enough."

I brought forward the van that is a mobile prison cell—kind of a show of strength, really—and said, "That is what I am prepared to use". They said, "Okay", and that was enough. Again, both the powers were available to us. They were being prepared to be used. We were not just tolerating it; there was a negotiated approach,

and both of those are examples of where that has been successful. On the serious disruption element in the Bill, I would encourage as much precision for that definition as possible.

Q120 Mrs Elphicke: I will start with Mr Parr. In terms of that level of disruption not being right, we have also seen eye-watering costs. I have some figures here. In 2019, Extinction Rebellion cost about £37 million, and at least £6 million was spent on just the policing costs alone. I appreciate all the comments that have been made about choices of policing and taking people from alternative policing duties. That is an enormous amount of resource that is going on this type of political activism, rather than on preventing and detecting serious crime. Part of that resetting is, obviously, ensuring that this has a deterrent effect and fills in some of those gaps. By filling in those gaps and giving greater clarity, will that help with this resetting and start some of that resetting of behaviour?

Matt Parr: We made that point in the report. There are certain things that probably would have a deterrent effect—the £37 million is something that we referred to. I think it is relevant. It is difficult to say that you cannot put a price on articles 10 and 11 and, of course, you are right. However, just for context, the two operations we looked at in London cost £37 million. That is twice the annual budget of the violent crime taskforce, so it does have a significant effect.

The other general observation I would make is that protest has been increasing and the complexity and demand on policing has increased. It does not seem likely to us that it will go in a different direction in the years to come, so something has to be done to prevent it becoming too much of a drain. Yes, I think that some of these act as a deterrent, of course. It rather depends on how they end up progressing through the courts—if, indeed, they are brought to court—and if it turns out that they are not meaningfully prosecuted and there are not meaningful convictions, any deterrent effect will pretty soon dissipate after that, I would have thought.

Sir Peter Martin Fahy: I would make the same point. Anything that could be put in the legislation to clarify the issue about "serious", which absolutely could be some financial calculation, would be extremely useful. You have to remember that it was quite clear that the vast majority of people thought the Insulate Britain protests were extremely disruptive and pointless.

There are certainly some protests where you have two sides. Therefore, you will get pressure from one side to use this legislation, and we should not be naive about the pressure that police leaders come under from local politicians to do that. I will be honest: they were some of the most uncomfortable times in my police career when that happened. Therefore, having clarity about the legislation is really important, as is anything that can be put in to help that.

I do not know whether there is actually any evidence that people are deterred. Common sense says that some people will be deterred by harsher sentences and the threat of a conviction in court, but clearly some people are so determined, and have a certain lifestyle where it does not really have any consequence for them, that—if anything—it makes them martyrs. Certainly, as Matt said, if they are not convicted or get found not guilty, if anything that gives them a greater status as a martyr and leads to further criticism of the police.

Phil Dolby: I want to make a point on the precision of the legislation. When looking to consider stop and search without suspicion, I think no matter how hard you try, there will be a complete, solid line in the public discourse between that and section 60, which is the existing power to have targeted stop and search around violence principally. That is a tool that is being used increasingly with the challenges we are all facing around youth violence and knife crime. It is also something around which communities have not always necessarily experienced fair treatment.

With all that we are trying to do now, it is still a key point of discussion and, sometimes, contention. We have the community coming in and scrutinising how we have used it. They watch our body-worn video of what we tried to do. We have even got youth versions of that for young people. I do not know how you would do the same kind of thing with protest. I think there is something that needs to be done there. There is best practice advice on how to conduct stop and search, and I think there is potentially some real thinking if those go ahead to start with that position as opposed to learning those lessons as we go along.

Q121 Dr Rupa Huq (Ealing Central and Acton) (Lab): We touched on what a protest is and also what serious disruption is. Some of these things have very vague boundaries. Peter, you mentioned the Sarah Everard case. For me, it was disappointing that the words “woman” or “women” are not in there at all. After the Sarah Everard vigil, I know you said it was all done by the book, but to the public it looked like very insensitive policing of the vigil. The reason it looked scandalous is that it was taken alongside all the other scandals with the Met police at the time, with that previous commissioner. The case itself is pretty horrific, and then there was the policing on the other side of it. What I wanted to ask you is whether serious disruption could be different for different people, and could it include psychological distress?

Sir Peter Martin Fahy: On your point about the Sarah Everard vigil, there is a question about what the difference is between a vigil and a protest, which is really critical for policing. Again, I would come back to that point: it did not really matter how legal or professional the police operation was. Because of that wider context, the public view of it is really clear.

Going back to what the chief superintendent said, you have to take into account absolutely the feelings of your local community. I would say that on things like this extension of stop and search, for me there would need to be a well-documented community impact assessment, where the police worked with other agencies and community groups to assess what the impact is going to be. I am not sure about the psychological impact. It is about the fact that this is how policing is judged now, and that is the risk.

I would bring in the issue of disruption orders. Anything that is about gathering intelligence is extremely problematic. Even if you go way back to the 1970s and the big scandal about undercover policing, that came from a desire to try to gather intelligence about protesters, and look where it got the police service. This is about what could be a group of people here organising a protest against a local road development and the police using the local council CCTV to try to show that, for instance, three people had met and a gentleman had put something on Facebook to bring about the protest. That is the

form of intelligence gathering that I would suggest some of your constituents, if they were involved in something that was local and very emotional, would find extremely disturbing.

I think the police service has to be very careful about going down that route. Again, I think most people would say that we want the police to use intelligence gathering against serious criminals. It would need to be a very serious degree of public protest and disruption for the police to be using some of those tactics, in terms of the degree of trying to hold on to public confidence in law and police powers and tactics.

Matt Parr: As the person who conducted the study into that vigil, I was genuinely shocked. I had a team significantly composed of female senior police officers—mostly detectives or people with firearms backgrounds. Therefore, they had done relatively little public order in their careers. I found astonishing the look on their face at some of the evidence they saw from that night and the abuse that the police took. There was a very, very clear difference between an entirely well conducted and peaceful vigil that lasted until a certain time of the night, and the disorder that—

Dr Huq: That was what it looked like. It was like—

Matt Parr: Exactly. The vigil and the disorder that came after were two entirely different things. That is a significant point as well, of course, because we talked at the start about getting the resources and it is increasingly difficult, in many forces, to persuade people to volunteer to do public duty, for reasons of the social media aspect and also, frankly, because to do so means you will be on the receiving end of some real nastiness from certain—not all, by any means—members of the public.

When it comes to your wider point about how you take into account the seriousness and the psychological aspects and the presentational aspects, I think they are all absolutely relevant factors to take account of. One of our recommendations in the report was that police decision makers should be given better tools to be able to assess what serious disruption looks like. It cannot be as simple as financial cost; it has to be far more complex than that. At the moment, we have seen a number of cases where senior decision makers had clearly been left floundering by not understanding the nature of the disruption that was likely to be a consequence of a particular protest and therefore they shrank from making sensible decisions. Better tools for understanding when the thresholds for the nature of disruption have been crossed strike me as an essential part of this.

Phil Dolby: There is a sense in which we are always doomed to look like we are failing in some of these incidents—even though the right thing may have been done—because we are the ones in uniform, with personal protective equipment that makes us look quite tough. You have a passive protester, for example, or somebody at a vigil. Say it is an older person. To safely take that person away requires five officers—to take a corner each and the head. The newspaper photograph of that looks like a lovely old person being taken away by five militaristic-looking police officers. They are actually doing that because that is the duty of care they have—to safely remove that person who will not move. The reporting is usually of a very solid moment.

Something that could be interesting relates to the body-worn devices that we currently have, which we are using to invite the public to come after the fact and see

how we have done and give us learning points and their views, particularly from communities that we have not necessarily always got the correct engagement with. The next generation of these will be live, and there might be some instances where we would invite affected members of the community in to watch what we are doing and give us live-time feedback. That will not necessarily always change decision making, but it is another part of the decision-making model to say, “Well, actually, that community impact we are describing”—

Dr Huq: The other reason—

The Chair: We are very tight for time, so I am going to Tom Hunt.

Q122 Tom Hunt: Sir Peter, I think you mentioned the point about police forces being aware of views within communities when it comes to policing protests. I am somebody who thinks it is very important that all protests are policed in the same way, and my slight concern is that it opens a Pandora’s box if you perhaps have a force that thinks, “Well, we think this cause is quite popular in the community, so we’re going to police it in a certain way”. Actually, that might not be the case. It might be that there is a vocal section of opinion that makes you think it is quite uncontroversial in its support when actually that is not the case. I just wondered how that is balanced.

Also, I just want a point of clarification—I think this discussion was again with Sir Peter—in terms of how we can improve things and how we can get to a point where perhaps there is a more dedicated team of people who are very trained and specialist. If we believe that these protests are becoming more frequent and more of an issue, although we do not want to go down the route of France, there have been occasions when I think that has been a temptation—when we have seen some of these out-of-control protests. I want to know what this new team that could help us get to a better place looks like.

Sir Peter Martin Fahy: Point No. 1 is that absolutely the police must never be swayed by a popularity contest. It is exactly what the chief superintendent says. Sometimes you have to stand above all that, and you are never going to win. Also, you might lose the battle, but you win the war. But the fact and the reality of policing is that you have to judge that. You have to talk to community leaders. You have to try to balance that. You have to make a decision. You have to try to involve people. One of the frustrations I had with that particular protest in Manchester is that I could not persuade anybody like the local council, the university or anybody to take this issue away from the street. It was an issue about what was going on in Palestine, and Israeli action. “Take this away”—but they would not do it. Sometimes, you need a mediation mechanism that takes that away from the street and that sort of public protest. It will not work on every occasion.

It is also about who makes that decision. Interestingly, the chief superintendent talked about using community panels to help you in your decision making. That was used with COP26 in Glasgow. Clearly, in Northern Ireland, they have the Parades Commission to make decisions on contentious protests and where they should and should not go. I find it interesting that we never mention police and crime commissioners, who are locally elected and, in some ways, should be representing local people. PCCs could possibly have a role in this, or it

could be that more goes to the judiciary, so it is not so dependent on the police, with all the consequences for public confidence.

If you are looking at capability, there is a much wider debate, which the policing Minister will be aware of, about the structure of policing in 51 police forces and whether that is appropriate for the current situation. It is very difficult in our policing system, where we do not have paramilitary operation, policing is by consent and, rightly, the public have a particular attitude towards the use of force, to come up with something that would have the capability to deal with the sort of situations we are talking about. There would need to be a huge shift in the public mood and I think British policing is not really set up and does not have the mentality to use the degree of force that you see in other countries.

People do not realise that we are pretty unique. When you hear about the sophistication and negotiation the chief superintendent talked about, that is the British style. In all the protests it is escalation, which looks in the early stages like the police are being weak, but in the background they are talking to people and they are escalating. They are saying, “If you keep on coming back, we will use this power and that power. Have you heard about that?” That is the British style of policing. You do not start with the heaviest. You work up to it, and that then maintains the confidence in your legality and proportionality.

Q123 Matt Vickers: We talked about the financial cost of policing these sorts of protests. Actually, as part of the pile that is spent, if the volume of resources spent increases on protest, it reduces on knife crime and on everything else. How bad does that get? When you look at something like Insulate Britain when they took to London’s streets, what happened to policing in our communities that was tackling things such as knife crime? How low does the bar get in communities when you have to prioritise something like that?

Sir Peter Martin Fahy: It can get very low. Unfortunately, that is not part of the public discourse. I think the public think that there are lots of police officers sitting around in police stations doing nothing, whereas the reality is—somehow the police service needs to find a better way of articulating this—that no, even the Metropolitan police does not have loads of spare officers. So absolutely, that is part of the huge frustration for policing and where it sometimes feels it does not get the support of local politicians and the media—and, crucially, the courts—to deal with this.

Matt Parr: One of the things we criticise a lot, not just in London but across the country, is abstraction and the disruptive effect it has on building up long-term relationships. It is not necessarily detectives being taken off their work and therefore serious investigations not getting followed through. It is more likely to be neighbourhood policing that gets depleted, or response that gets depleted, and therefore you get longer response times or neighbourhood cops just not doing their job. It is rather difficult to quantify what the long-term effects of that are, but we definitely see in the inspectorate the negative effects of abstraction for a whole range of things, and this is one of the more serious ones.

Phil Dolby: At the same time that there are more protests—and more complexity around them—the service is also facing increased demand. There is a national

shortage of the word “unprecedented” now because we have used it so much, but the demand that we are currently seeing as a service across the country is unprecedented. It is not only the amount of calls we are receiving—so volume—but, because hopefully we are doing better with our partners around vulnerability, more people are telling us about things that are really quite complex. The theft of a Mars bar is one call and “Twenty years ago, myself and my entire scout group were unfortunately the victims of something” is one call, but the complexity and the resource the latter needs is massive, and those are both going up at the same time.

There is not a standing army waiting to deal with protest. They come out of normal policing when they are required to do so, and the amount of neighbourhood policing that is affected by just keeping up with that demand is already quite acute. I just wonder whether, when we define organisations in the Bill, there is something about the organisations having some kind of responsibility to do what they can do to prevent—through their design, their target hardening and whatever staff they might put on—and to contribute to this as well and reduce it. Actually, we are talking about the cost of policing and the financial cost, but communities—with the reduction in policing that they are receiving—are the ultimate people bearing the cost. Perhaps we could do something with this, as we have with the Protect duty coming in under the terrorism Bill, putting responsibilities on local authorities and other people to do those kind of things.

We have had a very expensive protest recently around Amazon warehouses. Those drew in different forces and specialist policing. Some of the protesters were so long there in the cold that it became a medical emergency, and officers had to do some life-saving stuff around the protesters. With all those normal cops who have come away from other work, Amazon could have done more.

The Chair: I have to draw you to a close, Chief Superintendent. That is the end of the time allotted for the Committee to ask questions of this panel. On behalf of the Committee, I thank the witnesses for their evidence.

Examination of Witnesses

Olly Sprague, Stephanie Needleman and Martha Spurrier gave evidence.

4.10 pm

The Chair: We will now hear from Olly Sprague, military security and police programme director, Amnesty International; Stephanie Needleman, legal director, Justice, via Zoom; and Martha Spurrier, director of Liberty. I should say to Ms Needleman, please alert us if any technical issues arise during the course of your evidence. We have until 4.55 pm for this session. I invite the witnesses to introduce themselves for the record.

Stephanie Needleman: I am Stephanie Needleman, the legal director of Justice. Justice is an all-party law reform and human rights organisation working to strengthen the UK justice system.

Martha Spurrier: I am Martha Spurrier, the director of Liberty, the human rights and civil liberties campaigning organisation.

Olly Sprague: I am Olly Sprague, programme head at Amnesty International UK for our work on military policing and security matters. This is my first physical Committee for two and a half years—it is good to be physically in the room.

The Chair: It is good to have you. We will begin with a question from Anne McLaughlin.

Q124 Anne McLaughlin: Good afternoon and thank you for coming. This rehash of the protest parts of the Police, Crime, Sentencing and Courts Bill that did not get through Parliament seems to me to be more about reacting to issues that this Government disagree with and to protesters they do not like, such as environmental protesters and Black Lives Matter protesters. Regardless of whether that is the case, this Bill affects everyone, including the one group of people whom surely no one can get upset about, and that is the WASPI campaigners—I have just remembered, I am not supposed to talk about that. We have heard about disruption to people’s lives from protests, albeit we are talking about protests that are very short-lived and last only a few hours, as Sir Peter Fahy just said. Ideally, we would all live in complete harmony with no disruption to anyone’s life, but we do not. In your view, what will cause the most severe damage, the longest term damage and the damage to the most people—racism, environmental damage, people losing their pensions, or people staging protests?

Martha Spurrier: There can be little doubt that a Government should spend time looking at the root causes of a protest, whether that is the climate crisis rather than climate protesters, or racism rather than Black Lives Matter protesters. Of course, it is not news to say that protest is a foundational right, and that it is an article of faith in any democratic country that if there is something you disagree with, you can take to the streets to make your voice heard. It is of great concern to Liberty and those of us who work in this area—I am a lawyer, and I have been working in this area for the best part of 15 years—to see provisions in a Bill that not only have been rejected by Parliament once, but significantly expand police powers, often doing so in a very over-broad and imprecise way, such that it is difficult to see how they will be effectively implemented.

We would expect a disproportionate impact on marginalised communities from the exercise of those powers. We would also expect that they will fundamentally undermine the right to protest, and will not do what they are purported to do—deal with a hard core of some supposedly extremely disruptive protesters—but will in fact have a dragnet effect of chilling people’s right to protest and free expression, and deter ordinary people from exercising their fundamental rights. There is a whole range of examples in the Bill that we could talk about where it is very difficult to see why those measures are proportionate and justified ways of dealing with the perceived problem, let alone whether there is a problem as articulated.

Olly Sprague: I echo what Martha said. For an organisation such as Amnesty, it is not a case of either/or: we do not want to balance the harm that might be caused by climate change versus the positive duty that all states have to uphold the right to freedom of assembly and association and the right to protest. You have to manage all things.

One of the things that we bring here is that we are an international human rights monitoring organisation: we look at human rights internationally, and we look at where the UK is on the standards, obligations and legal frameworks that exist. It is worrying to say that for most of the provisions in the Bill, we see a clear gap between what the international standards require of the UK and what the UK proposes here, and it is the wrong gap. The UK is on the wrong side of where it should be. I am sure we will have the opportunity to go into why we think that and the areas where we think that is the case, but that is a very worrying direction of travel, especially when in terms of its foreign, defence and security policy aspirations, the UK sees itself very much as a champion of civil society space. It sees and acknowledges the fact that the world is becoming increasingly authoritarian, and wants to do things to stop that.

As a quick example, in April this year, Lord Ahmad—a Government Minister from the Foreign, Commonwealth and Development Office—was giving his closing remarks to the 49th session of the Human Rights Council. In that, he made specific reference to a very important resolution about the need to promote and respect the rights of human rights defenders around the world. It was a resolution that was welcomed and strongly supported by the UK Government; it was a very important resolution. That resolution essentially requires that all states refrain from measures that excessively criminalise human rights defenders and their rights to freedom of expression, so you have a bit of a disconnect here between the statements that the UK puts out internationally and the role we see ourselves playing in the world community, and the kinds of measures we are putting in place on our own domestic legislative front. They are out of step with each other, and it is not joined up.

Stephanie Needleman: I completely agree with what Martha and Olly have said. Picking up on something that Olly said about the disconnect between what the UK is doing internationally and what we are doing domestically, there is also an internal disconnect in what we are doing domestically in the UK. The right to protest is an element of the right to freedom of expression and assembly. On the one hand, that is being championed under the Bill of Rights consultation and the Higher Education (Freedom of Speech) Bill, but on the other hand, it is being severely restricted in this Bill, so there is an internal inconsistency there as well.

Q125 Kerry McCarthy: May I ask about the serious disruption prevention orders in clause 12? As I understand it, there could be an application to the court by the authorities to prevent somebody from taking part in protests, even if they had not been convicted of something but are deemed to have been involved in disruption. I did have further details, but I did not realise I would be called so quickly; I have given the general gist of my point. Do you have a clear idea of how much would have to be proved? If you are applying for an order on the basis that someone has been involved in something but they have never been convicted of it—let us assume they have not been taken to court and acquitted of it—I guess the idea is that they would be known to the police as having been involved in previous protests. How would you see that panning out? Could they find themselves being subjected to this process just because they have been photographed at previous protests at which other

people committed disruptive acts? To what extent is it a collective thing? Or would it have to be proved that an individual had done something?

“Disruption” is such a vague term. What would a person have to have done for the police to be able to go down this route? I should probably ask the Minister, because I think the answer at the moment is that we do not really know, but how do you see this panning out?

Stephanie Needleman: I cannot see if Martha and Ollie are indicating that they will answer, but I can kick off, if that is helpful.

I think you have hit the nail on the head in raising the vagueness of when these serious disruption prevention orders can be imposed. They can be imposed not necessarily on conviction, as you said. The orders can cover an incredibly broad range of circumstances. Under clause 13(2)(a)(v), all you need to prove is that on two separate occasions somebody

“caused or contributed to the carrying out by any other person”—they do not even have to have done the act even themselves; it could be done by someone else—

“activities related to a protest that resulted in, or were likely to result in, serious disruption”.

You do not need to have carried out the “activities related to a protest”;

you just have to have “caused or contributed” to them. Those are incredibly vague and broad terms; they could cover almost anything done to assist someone doing anything related to a protest. For example, it could be driving somebody to a protest, or to shops selling paint or glue, if the person the glue is sold to subsequently glues themselves to something.

Linked to that, there does not seem to be any requirement for the person to have had knowledge that the protest activities were going to cause serious disruption when they “caused or contributed” to the carrying out of those activities. That could capture a vast range of behaviour.

Q126 Kerry McCarthy: How do you see the provisions working? As I understand it, an application has to be made to a court for the order. Would the person who was going to be subject to this order be entitled to legal representation? Would getting the order involve proving the person’s original involvement? Would they be able to challenge the fact that they were deemed to have been involved in supporting disruption on two previous occasions? Or would the police apply for the order and have it granted in absentia?

Stephanie Needleman: It has to be proved, but it only has to be found, on the balance of probabilities—the civil standard of proof—that one of the conditions has been met. As I said, the conditions are so broad and vague that it should not be that problematic for the police to approve. So yes, involvement would have to be proved, but given the vagueness and the broadness of the conditions, it is likely that it can be easily proved.

Martha Spurrier: It is right that, for example, legal aid would not be available to someone defending themselves against having one of those orders imposed on them, and of course they can be renewed; there is a suggestion in the Bill that they could be renewed indefinitely. Once the order was in place, you would not get legal aid for a lawyer’s assistance in dislodging it.

It is worth stepping back a little and looking at the serious disruption prevention orders. These have been proposed by the Met police before, under the name of

protest banning orders. The Home Office was against bringing them in, on the grounds that they were neither compatible with human rights nor an effective deterrent that would solve the problem that they purported to. That relates to a slippage in principle and language that we see across the Bill. It is important to pay attention to it, because this is law; cases will be decided on these words. Article 10 of the European convention on human rights is of course not an absolute right. It can be interfered with. There is a balance to be struck between the interests of a protester and the interests of the wider community, for example.

There are many grounds on which you can interfere with the right to protest; one of them is crime and disorder, and another is the rights of other people. You already have a human rights framework for limiting protest in certain constrained situations, but what we see in this Bill is not the language of crime, disorder, or abuse of others' rights, but the language of disruption, inconvenience and nuisance. That is a significant, conceptual, legal change in the language. As Stephanie says, it takes you into the territory of criminalising what we have hitherto understood to be non-criminal conduct—of criminalising protest tactics that have a long history and previously would not have been considered criminal acts. People who may have participated in a couple of protests over five years may suddenly find themselves within the purview of the criminal law, although hitherto both criminal and human rights law would simply never have brought them into that space. When thinking about all these definitions and new offences, it is important to recognise that significant paradigm shift in the concept of how you go about policing protest.

Add to that the fact that these new concepts, including the idea of serious disruption, will be defined in secondary legislation. This significant interference with the fundamental right of protest may result in terms being defined by a politician who gives the definition very little parliamentary scrutiny. The measures would then be implemented by a police service that interprets them as it sees fit; we do not need to go into the times when they get it right and the times when they get it wrong. There are lots of layers to this before you even get to the detail of what happens if someone is subject to one of these orders, how they would shift it, and whether being subject to an order would mean that they could no longer protest.

Olly Sprague: My colleagues have covered everything that I wanted to say on the domestic aspect. It is worth coming back to the question: where do the international standards sit? The United Nations Human Rights Committee's general comment from 2020 is most useful here. It allows the criminalisation of individuals taking part in a demonstration only in very specific circumstances, and it sets the threshold at incitement to violence. It sets the time limit as "as short as possible"; it talks in terms of a few hours. The international standard allows individuals to be prevented from accessing a process, but the bar is very high. The Bill sets an extraordinarily low bar. There are two levels by which these orders can be put in place. One is based on a person having two previous convictions on the civil standard burden of proof; the other is not based on conviction at all, which is even worse. The UK is so far out of step with where it should be under international standards; it is quite alarming.

Kerry McCarthy: I could understand it to a point if somebody's presence at a future protest could lead to a dangerous situation, which is what you say the international comparison would be; but under the Bill, basically your right to protest could be removed for five years because you had not behaved impeccably on previous protests.

Olly Sprague: The Bill would also potentially hold you responsible for the conduct of other people at a protest that you were organising. One of the great unfortunate misconceptions of protest, especially around violence and disruptive protest, is that a protest somehow gets characterised as being inherently violent because actions of violence occurred within it. It is perfectly legitimate for law enforcement officers to deal with and prevent those violent actions and make arrests. However, you cannot characterise a whole protest as violent just because some aspect of it was violent.

With the way the serious disruption prevention orders are drafted, you could, in theory, be held responsible for an altogether peaceful protest where a violent action that was completely beyond your control took place. You cannot really be held responsible for something that you were not responsible for, if that makes sense.

Q127 Kerry McCarthy: I think the Amnesty note says that in other countries, the issue is about not being allowed to organise a protest, but this measure, as I understand it, would mean that you were not allowed to participate. It could be quite specific: you would not be allowed in a particular place at a particular time, or in a particular area when something was going on. Is that right?

Olly Sprague: We have to be careful when making international comparisons. We do not really compare and rank countries in some kind of league table. We look at each country individually and see where it marks up. It is interesting, though, that there are not that many examples around the world of measures akin to a protest banning order.

Q128 Kerry McCarthy: You say that in Belarus anyone who has been fined is not allowed to organise a protest for another year. This measure goes way beyond that.

Olly Sprague: We have not looked at 600 different laws for the purpose of this sitting. However, where we have looked, we found corresponding powers of a similar nature in places such as Turkey, the Philippines, Belarus, Russia and Egypt, I think. In all the cases where they have a measure that is similar to a protest banning order, it has been on the organisation of protests, not the participation.

Q129 Kerry McCarthy: You would like to think that our civil liberties protections were a bit better than those in Belarus, but the ban there is only for a year, rather than five.

Olly Sprague: Yes.

Q130 The Chair: Did you wish to say something, Ms Needleman, or was I misinterpreting you?

Stephanie Needleman: Yes, please. I want to add that when we talk about what these protest banning orders do, we should note that they do not necessarily just ban people from attending or organising protests. They have

significantly wider, far-reaching applications into everyday aspects of people's lives. As long as they are imposed for one of the purposes listed, the conditions that can be imposed when someone has been given one of these orders can be anything. Look at the conditions listed in the Bill: they can prevent people using the internet, associating with particular persons or participating in particular activities. It is not necessarily limited to protest. We are talking about activities that are far, far broader than just being prevented from attending protests.

Q131 Kit Malthouse: For precision, we should be clear that the measure that was previously considered, which you referred to, Ms Spurrier, was a protest banning order that was an absolute ban, which you rightly did not support. However, this measure is a conditional order, which may place restrictions or conditions on somebody's ability to operate in a protest environment. For example, a Just Stop Oil person may be banned from coming within half a mile of an oil terminal, but could still attend a protest in central London outside this building about the same issue. That is the difference between the two, is it not?

Martha Spurrier: Well, there is a potential difference in how it would be applied, but the serious disruption prevention orders have the capacity to be absolute bans in the same way as the protest banning orders.

Kit Malthouse: Under judicial supervision.

Martha Spurrier: Yes, under judicial supervision—but, as we have said, to a low standard of proof, based on no criminal conduct.

Q132 Kit Malthouse: Would the same effect currently be achievable through an injunction against an individual through a civil route?

Martha Spurrier: I don't think so, because I do not think you could attach the same invasive conditions. I do not think you could have electronic monitoring, for example, if you had an injunction. That is my understanding.

Q133 Kit Malthouse: But you could, through a civil injunction, stop somebody attending a particular place at a particular time, or associating with particular people or, for example, coming near an oil terminal. There are wide—basically unlimited—powers to impose conditions through an injunction.

Martha Spurrier: I would not describe them as unlimited powers, but judges absolutely can impose injunctions. It goes to the broader point of whether these additional powers are needed, and I know that there have been people giving evidence that—

Q134 Kit Malthouse: I do not mean to rush, but we are short of time. From a human rights point of view, if you were a protester subject to some kind of control or sanction for your activity, would you rather go through a civil procedure or a criminal procedure, based on the protections that would be available to you as an individual—access to a jury trial, supervision by a judge, the level of proof and all those kind of things?

Martha Spurrier: I do not understand the question. A civil injunction and an SDPO are both civil procedures with criminal sanctions attached.

Q135 Kit Malthouse: Sorry, I was not necessarily referring to SDPOs. I meant more widely. At the moment, we have a situation where we see people go to prison in this country for so-called protest activity through a civil route, because the criminal route is not deemed enough of a deterrent or is too slow. The contrast between the two is presumably that in the criminal system, there are quite strong protections, including the right to a jury trial and others, that do not apply in a civil situation. If the end result is that you are going to end up guilty of a particular offence, surely you would do it through the criminal route, rather than the civil route.

Martha Spurrier: If you are going to face imprisonment, you will always have access to counsel—to legal aid. You may face those sanctions either directly from a breach of the criminal law or, if you are under a civil order that has criminal sanctions attached to it, from breaching that civil order. I cannot see an argument that any person is better off having an SDPO, as opposed to an injunction or any other offence. The fact of the matter is that an SDPO is a novel legal provision that, for all the reasons we have gone over, captures non-criminal conduct as well as criminal.

Q136 Kit Malthouse: But nevertheless, the impact or effect of the two is not dissimilar.

Martha Spurrier: Well, the impact of an SDPO is much, much wider, because you could end up having a civil order attached to you that has invasive conditions, such as electronic monitoring, that could be renewed indefinitely, and if you breach them you could face almost a year in prison and an unlimited fine. I do not think they are comparable at all. We do not have anything like that currently, whereby, for non-criminal acts, you could face that kind of civil or criminal sanction.

Q137 Kit Malthouse: I thought that for a breach of an injunction, you could face up to two years in prison.

Martha Spurrier: You can. What I am saying is that you would not currently have an injunction based on non-criminal conduct—the kind of non-criminal conduct we are talking about with this Bill—that then has attached to it invasive conditions such as electronic monitoring. There is no comparison with what this Bill is doing.

Q138 Kit Malthouse: Okay, thanks very much. Mr Sprague, I want to ask you about other jurisdictions—most notably, Scotland. My perception is that Scotland has more draconian sentencing powers in these circumstances. For example, we referred earlier to the offence of malicious mischief, which carries an unlimited prison sentence when presented in front of a judge. Just last month, the organiser of a protest in Glasgow was arrested on the grounds that the protest had not been authorised by the city council. Are you engaged with the Scottish Government over concerns about that situation, or do you think it is a very settled legal situation that has been there for some time, so that is an acceptable bar?

Olly Sprague: I do not want to give a non-answer here. Obviously, policing is a devolved matter, so our offices in Scotland have an equivalent of me. They are involved in a number of policing and scrutiny panels, and they are actively involved in the human rights framework around public order policing. They were involved in a scrutiny panel for the COP protests, for example. These are discussions that our colleagues have

with the Scottish Government all the time. I am not fully abreast of the details of those, but I can tell you that we have them. Where we are critical, we make that known.

Q139 Kit Malthouse: The hon. Member for Ealing Central and Acton has been campaigning for some time on buffer zones around abortion clinics, which would obviously impact individuals' rights to protest. As organisations, do you support the principle of 'buffer zones in such circumstances?

Martha Spurrier: Liberty's position on buffer zones is to support as limited a buffer zone as is possible to protect access to reproductive rights for the people who need to use the services of the clinic, while also protecting the right to protest. One of the amendments proposes a 150-metre buffer zone, and we think that that limit is acceptable, although it should be dependent on circumstances—if a narrower one is possible, that should be used. There are some aspects of the amendment that we agree with, and some that we think are too broad and could infringe the right to protest. I have to say that of all our concerns about this Bill, buffer zones around abortion clinics are not high on the list. There are much more egregious interferences with the right to protest in this Bill than those proposed in that amendment.

Q140 Kit Malthouse: Okay. Do any of the other witnesses wish to comment on buffer zones?

The Chair: Ms Needleman, would you like to comment?

Stephanie Needleman: Sorry; I could not hear very well. Were you asking me whether I wanted to comment?

Dr Huq: Can I ask a question? It is my amendment.

The Chair: Order. I am going to come to you, Dr Huq, but I will decide who speaks and when. The Minister is currently speaking, and we are asking Ms Needleman, who is joining us by Zoom, whether she wishes to give a response.

Stephanie Needleman: I do not think I have that much to add—Justice, as an organisation, does not have a formal position on this—but I agree in terms of protecting the rights of women to access abortion services, obviously, and that should be done in a way that does not infringe the right to protest. The right to protest is not an unlimited right, so there is scope to do something, but it needs to be limited so that it is within the bounds of articles 10 and 11.

Olly Sprague: We agree totally with that. In general, we would take a very dim view of the idea of protest buffer zones, unless there are exceptionally good reasons. We would be looking at things like drawing on existing regulations around incitement to hatred and privacy rights—those sorts of things. A way of protecting rights on both sides would be seen as important. As Martha said, what mitigation could be allowed to make sure that one right does not overshadow the other, if that makes sense? But, obviously, this is an incredibly sensitive and difficult area.

Q141 Kit Malthouse: Obviously it is, and the reason why I raise it is to illustrate the subjective nature of the judgments about where the line is drawn when balancing rights between competing groups. I guess that that leads

to my final question. I am not trying to be provocative, but I would be interested to know whether there are occasions in your organisations' histories when you have campaigned for the rights of those who are affected by protest but not participating in it—the rights of the majority to go about their daily lives. If so, are there things we should be doing to restrict particular protests—for example, for persistent protestors who cause enormous damage or danger to others—that you think should be in the Bill?

Martha Spurrier: Liberty has a long history of working on the right to protest, both in terms of protestors and members of other communities. For example, we have a rich history of tackling the difficult issue of far right protest and incitement to hatred, where Liberty has very much supported the idea of communities needing to be protected when they are faced with far right, extremist protests. One of the other things that article 10 does, and that policing has had to grapple with since the advent of the Human Rights Act, is to protect counter-protests and protests. You very often have two protests going on at the same time where there is a clash. Again, Liberty has done lots of work to make sure that both protest groups, acting within the law, are protected with their article 10 rights upheld, in so far as that can be done, compatibly with each other.

I absolutely refute the idea that this is subject-specific. The abortion buffer zones case is a really good example. As with many other cases, it is a fact that we have public order laws in this country and we accept that things such as preventing violence and preventing incitement to violence, for example, are an important infringement on protest. Many of those considerations are in play when you think about abortion buffer zones. It is when you are dealing with rights that butt up against other rights that you have to make difficult calls, for sure, but we are saying that the Bill fundamentally gets the balance wrong.

I do not know whether we will have time to get on to the stop-and-search proposals or the offence of locking on. However, thinking about locking on as an example, just very briefly, those who are policing a protest are confronted with a dynamic situation. They are trying to work out at what point that crosses the line and might need to be shut down. If someone locks themselves to an animal testing centre—let us take it out of modern, current examples—the police have to work out at what point that person's right to lock themselves to the testing centre becomes an infringement of other rights. It might be that the police think, "Actually, that guy can be there for two days and it doesn't really matter. It's a perfectly lawful and acceptable exercise of his protest rights. But, at a certain point, it is going to become a problem and we are going to consider removing him."

If you create an offence of locking on—if you criminalise such specific protest tactics—the minute a man puts his padlock around that testing centre, he has committed a crime. There is no ability for the police to act in a dynamic way, to assess, and to do the balancing act of comparing competing rights. That is it: the tactic is criminalised and that man can be removed immediately, regardless of whether there is any impact on other people.

Of course, any of us who work in this area are really adept at trying to manage competing rights, and that is what the police have to do all the time. But the proposals in the Bill are blunt instruments that will criminalise

hitherto lawful activity. They will have a chilling effect on the ability to protest, and they will not deter normal people who want to make their voices heard from trying to do so—instead, the Bill will just criminalise them. It will not deter the hard core, who have breaking the law as one of their tactics, because the provision just falls into what they already do.

Q142 Kit Malthouse: What should we do about that?

Martha Spurrier: What should we do about protests?

Kit Malthouse: No, what should we do about the hard core that you are talking about?

Martha Spurrier: What about the hard core we already have? The police already have a whole range of measures to deal with hard-core protesters. We have criminal offences and we have specially trained police officers dealing with those people. Someone earlier talked about not living in perfect harmony. A measure of disruption and nuisance is going to be a factor of any protest about any hot political issue at any one time, whether you are talking about the civil rights movement in America, the movement for votes for women with the suffragettes in this country, or the climate justice movement now. You cannot take the sting out of it entirely, because then there would not be protest, and then we would not live in a democracy any more.

The Chair: Ms Needleman, do you wish to say anything?

Stephanie Needleman: On the measures that already exist, there is obviously the Police, Crime, Sentencing and Courts Act 2022, which has literally just been passed, which includes measures—the expanded circumstances—under which the police can impose conditions on protests. That just adds to the existing measures. I do not think these new measures have even come into force yet, so we do not know what effect they will have. There is no evidence base that further measures are needed.

The Chair: Dr Huq, you can have your say now.

Q143 Dr Huq: Sorry, I just thought that, seeing as it is my amendment, I could explain what it proposes, rather than being ventriloquised by the Minister.

The distance need not be 150 metres. We just took that from Ealing, because that is where the main road is, so then it is not in the eyeline. But it again comes back to this question of what is a vigil—those people would say they are doing a prayer vigil—what is a protest and what is harassment. In the eyes of the woman who is going in for a traumatic procedure, it feels like that, and it can be psychologically distressing. The French legislation allows for psychological distress to be considered.

Is there a right to privacy as well? I ask that because the London Borough of Ealing has acted under local authority powers, and only three local authorities in the whole country have done so since 2018, because the process is too onerous. Every time a case has gone to the High Court, the Court of Appeal or the Supreme Court, the privacy of the person having their procedure has trumped freedom of thought, expression, conscience, belief—all that stuff. I just wondered where the three of you stand on that. Again, I am disappointed, because with Sarah Everard, we said so many times, “This should never happen again; she was only walking down the street,” but, in my eyes, these people are just trying

to access the pavement to have a perfectly legal procedure. As the Minister pointed out to me in the House the other day, this has been lumped in with the vax protests. I think it is about women—a marginalised community who should be protected, as you said at the start—being able to use the pavement. They should be able to do so unimpeded. What do you three of you think?

Martha Spurrier: Absolutely there is a right to privacy. One of the conditions in your amendment is to prohibit the filming and photographing of people using the services. We would say that no one has a right to capture someone else’s identifying information and record it. I do not have the amendment in front of me, but the points about harassment, being physically approached or being physically manhandled—anything of that nature—would be a breach of women’s rights and would fall down in favour of women and the buffer zone, not in favour of the protestors.

However, there are also conditions in the amendment on things such as seeking to influence and showing distressing imagery. Our view is that that falls on the other side of the line. People are entitled, as part of their right to protest, to seek to influence people, as long as they do not do so in a way that is harassing. Similarly, if you walk past certain embassies in London—the Chinese embassy, for example—there will often be very distressing images on show as part of protest against states’ policies. The same applies outside abortion clinics, where distressing images may be shown, but may be part of a legitimate right to protest. There is a balancing act.

Q144 Dr Huq: I feel that they should not be on the doors of the clinic, though, because that is deliberately designed to shame women and not really to do anything else. Otherwise, they should be targeting legislators or doing it on the other side of the road, where it is not visible and upsetting.

Olly Sprague: The only thing I would add is that your location point is quite interesting. The mitigation measure or countermeasure that you might put in place to balance those two rights in a proportionate way might differ depending on the location. In the case you mentioned, it may well be the location of the pavement—I do not know where the clinic is—but for another clinic, there might be a more concealed side entrance or something else that could be used. You would have a different approach to maintaining the dignity and security of women having a perfectly lawful procedure, and managing a counter-protest. You could apply a different model depending on geography.

Q145 Dr Huq: I totally agree; it should be considered case by case. I would have asked about our local police, if I could have had a go. There were two groups—it was “West Side Story”—with the protestors and the counter-protestors, who felt they had to escort people in each time. The process has freed up police time, and no one has been fined under it.

I want to ask about suspicionless stop and search—no one has said anything about it—which corrodes trust for BME communities, and about how body cameras could be a way out of completely suspicionless stop and search.

Martha Spurrier: Again, just to set the context, the proposal to extend suspicionless stop and search into this area is extraordinary. At the moment, suspicionless

stop and search is available in the context of serious violence. It was available in the context of terrorism. It was struck down and Theresa May had to abandon it. That is in the context of crimes that will potentially kill many, many people.

We know that stop-and-search powers are implemented in a racist way. Under suspicion-led stop-and-search powers, a black person—a person of colour—is seven times more likely to be stopped than a white person. Suspicionless stop and search is twice as racist, at 14 times more likely. The idea that you would take a corrosive, racist and deeply controversial policing tool and apply it in the context of protest is extraordinary to us. We cannot see how it will do anything other than cause huge damage for particularly marginalised communities and have a chilling effect on seeking to exercise protest rights, particularly for them. There is a wealth of evidence on the detrimental impact of stop and search, and if there is a threat that people may be stopped and searched at a protest, there is every chance that they simply will not go and make their voice heard.

Ollie Sprague: I agree 100% on suspicionless stop and search. It is enormously problematic and, on this one, Amnesty would say that the proposal fails the test of lawfulness—we talk about proportionate necessity, but there is also one of lawfulness. For example, the confiscation powers that go behind the stop-and-search powers around the locking-on offence capture an enormously broad

range of items that an officer could argue might be capable of causing an offence. You have so many caveats that you will get into a situation where an ordinary person could have no idea why they were stopped, or why somebody might be taking an item off them that was completely lawful—everything from string to a bit of glue. It fails on that basic principle of lawfulness, which I think is incredibly problematic.

The Chair: Order. You will have to draw it to a close, Mr Sprague, because we are at the end.

Ollie Sprague: Oh, I am sorry, Chair.

The Chair: It is not your fault; the Committee had determined certain timescales for the panels, and we have reached the end of the timescale for this panel. My apologies to those I was not able to call during this section.

My thanks to our witnesses—those in the room, and Ms Needleman, who has joined us by Zoom. We are grateful to all the witnesses for their contributions.

Ordered, That further consideration be now adjourned.
—(Scott Mann.)

4.56 pm

Adjourned till Tuesday 14 June at twenty-five minutes past Nine o'clock.

**Written evidence to be reported
to the House**

POB01 Mr Damien Fitzgerald and others (re: reject
new Clause 1)

POB02 Liberty

POB03 Society for the Protection of Unborn Children
(SPUC)

POB04 HS2 Ltd

POB05 Big Brother Watch

POB06 Right To Life UK

POB07 Amnesty International

