PARLIAMENTARY DEBATES

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OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PUBLIC ORDER BILL

Seventh Sitting

Tuesday 21 June 2022

(Morning)

CONTENTS

New clauses considered.
Title amended.
Bill, as amended, to be reported.
Written evidence reported to the House.

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not later than

Saturday 25 June 2022

The Committee consisted of the following Members:

Chairs: † Peter Dowd, David Mundell

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

Anne-Marie Griffiths, Sarah Thatcher,
Committee Clerks

† attended the Committee

Public Bill Committee

Tuesday 21 June 2022

[Peter Dowd *in the Chair*]

Public Order Bill

9.25 am

The Chair: I have a few preliminary reminders for the Committee. Please switch electronic devices to silent. No food or drink is permitted during sittings, except for the water provided. Hansard colleagues would be grateful if Members emailed their speaking notes to hansardnotes @parliament.uk or, alternatively, passed their written speaking notes to the Hansard colleague in the room.

New Clause 1

Offence of interference with access to or provision of abortion services

"(1) A person who is within a buffer zone and who interferes with any person's decision to access, provide, or facilitate the provision of abortion services in that buffer zone is guilty of an offence.

(2) A 'buffer zone' means an area with a boundary which is 150 metres from any part of an abortion clinic or any access point to any building or site that contains an abortion clinic.

(3) For the purposes of subsection (1), 'interferes with' means—

(a) seeks to influence; or

(b) persistently, continuously or repeatedly occupies; or

(c) impedes or threatens; or

(d) intimidates or harasses; or

(e) advises or persuades, attempts to advise or persuade, or otherwise expresses opinion; or

(f) informs or attempts to inform about abortion services by any means, including, without limitation, graphic, physical, verbal or written means; or

(g) sketches, photographs, records, stores, broadcasts, or transmits images, audio, likenesses or personal data of any person without express consent.

(4) A person guilty of an offence under subsection (1) is liable—

(a) in the first instance—

(i) on summary conviction, to imprisonment for a term not exceeding 6 months, or

(ii) to a fine not exceeding level 5 on the standard scale, or

(iii) to both; and

(b) on further instances—

(i) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both; or

(ii) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine, or to both.

(5) Nothing in this section applies to—

(a) anything done in the course of providing, or facilitating the provision of, abortion services in an abortion clinic,

(b) the operation of a camera if its coverage of persons accessing or attempting to access an abortion clinic is incidental and the camera or footage is not used for the any of the purposes listed in subsection (3), and

(c) a police officer acting properly in the course of their duties."—*(Dr Huq.)*

This new clause would introduce areas around abortion clinics and hospitals (buffer zones) where interference with, and intimidation or harassment of, women accessing or people providing abortion services would be an offence.

Brought up, and read the First time.

Dr Rupa Huq (Ealing Central and Acton) (Lab): I beg to move, That the Clause be read a Second time.

At the last count, 35 other right hon. and hon. Members, from seven parties, including at least one Member of every party of England and Wales, had signed up to the new clause. I do not know whether the number has gone up since then.

We have talked quite a lot in Committee about what could happen. We have talked about what could happen if someone was carrying, as I am today, a bike lock—I thought I would have to cycle in; I cycled part of the way, to the house of another Member who gave me a lift the rest of the way—and whether I could be criminalised for having that on my person. Could two little old ladies from the Women's Institute be arrested for linking arms? The new clause, though, addresses what is actually happening every day, up and down our country, at abortion clinics.

Some of the fanciful stuff we have talked about, such as members of Extinction Rebellion gluing themselves to trains, or the blocking of the A40 in my constituency, which I have spoken about, are pretty rare and the exception, not the rule; but every day, women are unable to make their way into abortion clinics to have a perfectly legal procedure. It has been legal in this country since 1967 or 1968, I think—for more than 50 years, anyway. There is disruption not just to the women who use the clinics, but to users of the public highway and local residents. The figures are there—the Home Office has done the crunching—and they show that tens of thousands of women, at a number of locations, are affected every year.

I have previously ventilated this issue through a ten-minute rule Bill and a letter to the then Home Secretary, Amber Rudd. Loads of MPs from both sides of the House signed up to those, because they know, as do their local police forces, what a waste of time it is for the police to have their people tied up in adjudicating between two groups of protesters. There are two groups. There are the anti-choice people, and then there is a group in my constituency called Sister Supporter; its members, who wear pink hi-vis vests, want to escort women into the clinic. There is friction, and the police, who should be fighting crime, are tied up there.

Kerry McCarthy (Bristol East) (Lab): My hon. Friend mentioned the impact of the people outside the clinics on the people going into the clinics, and the obstruction of the pavement and passers-by, but does she agree that there is a difference between the two? As we have discussed in Committee, protests that cause people inconvenience are legitimate, but there is quite a difference between that and the harassment of people making a possibly difficult life choice. Does she agree that there is a difference in the impact on people, and that protesters could hold a protest without being close to the clinic?

Dr Huq: My hon. Friend makes a really good point. When is a protest not a protest? These women are subject to harassment. There is a time and place for

protest. If someone wants to attack legislators, they should protest here, or they could protest at the Department of Health and Social Care, wherever that is now—I know it is not in Richmond House anymore, because my office is there. There are legitimate places where people can hold a protest without shaming individual women and rubbing their noses in it. We have heard how these things are filmed and put on Facebook Live, and the new clause takes that into account.

The Minister has chided me on this before, but last time there was a Labour amendment on this issue, it also concerned anti-vax protests. The former Minister for vaccines used to have a Friday call with all of us that was very popular, and he pointed out that stuff has been done in law to stop those protests. This is not dissimilar. We said after the horrible Sarah Everard episode that women should be able to go about their lawful business, to use the public highway and to walk down the street without being impeded by others. Some people would describe what is happening outside clinics as a protest; the people doing the "protesting" would say they were holding vigils and offering advice to the women, but there is a time and a place for that, and it is not at the clinic gates when women are making the most difficult decision of their life, as my hon. Friend the Member for Bristol East said. They are not doing it lightly, and it may be for all sorts of reasons, such as fatal foetal abnormality.

Other jurisdictions have similar legislation. The French legislation brackets the offence with causing psychological distress, and the amendment is lifted from British Columbia. Several American states have such an offence, as does Australia. I have given the example of Ealing before, and I am proud that my local authority was the first to set up a public spaces protection order, or PSPO. Ministers have told me, "Well, councils can do that," but that order was set up in 2018, and only three other councils in the country have done the same, although new locations for such action are popping up all the time. The Minister might not understand, but my hon. Friend the Member for Bristol East and the shadow Minister, my hon. Friend the Member for Croydon Central, will know that walking past certain unpleasant things will send a shiver down a woman's spine anyway. Imagine how that might be magnified when they face a difficult medical procedure. Women can sometimes be uneasy about using the public highway; such activity adds a whole new dimension.

As I say, only three other councils have used a PSPO. Why have other councils not done so? Because setting them up is time-consuming and clunky for local authorities, who have quite a lot on their plate. In Ealing, we have the west London Marie Stopes clinic. It is not just my constituents who use it; women come from all over the country, and women from Ireland historically have used it. We are lucky in Ealing: protesters are moved away from the clinic gates. They are moved only 150 metres away, because there is a main road boundary there. We could be flexible about the limit; it could depend on where the clinic gates are, and where women have to pass. As a mother, I have taken little ones past these groups. We are not just talking about protests; there can also be gruesome images of foetuses and 3D dolls. I have been asked, "Mummy, what's that?" People who are not even using the clinic have had to divert and use other roads so as not to pass that distressing scene.

Other councils have not followed Ealing because doing so is very resource intensive. We had this situation for 24 years in Ealing before the council took the imaginative route of using antisocial behaviour order byelaws; that is what PSPOs are thought of as being. The order is only temporary; it lasts three years before it has to be renewed, and a huge burden of evidence is needed. There is the principle of consistency before the law. We are lucky in Ealing, but this should not be a matter of luck. People should have equal protection under law, wherever they live, and there should be such restrictions for every clinic. I understand that Birmingham has two clinics, one in the north and one in the south; sometimes the protest gang will be at the north clinic, and sometimes at the south one. The element of uncertainty needs to be eliminated. Life has enough uncertainties as it is.

We are often told in Committee, "There is sufficient legislation." Opposition Members have at times asked the Government, "Why do you want to create a new offence? There is sufficient legislation out there. These people can be stopped." In this instance, it is proven that there is not sufficient legislation. Whenever I have ventilated the issue, the idea of taking action has been popular on both sides of the House. As constituency MPs, we all know about the complaints we get in our postbags when a street becomes unusable and police are tied up in dealing with unnecessary stuff. I was discussing this offline with a Committee member who I cannot see in his place today. He has an issue with abortion, but this is not about abortion at all; it is not about the number of weeks before which a person can have an abortion, or about being anti-abortion or pro-abortion. It is just about people not having a protest within the buffer zone, however many metres wide we define that as being. People can make their protest in a way that does not interfere with women's right to walk into the clinic and have the procedure.

As my hon. Friend the Member for Bristol East pointed out, having an abortion is a huge, difficult decision, and women should be informed of the pros and cons and their choices by medical professionals, counsellors and family members. These things should not happen in the street, in a pressurised environment, and in a distressing and confrontational way that is about trying to bring on all these feelings of guilt and shame.

This issue is just not going away. The number of protest sites is growing year on year. The stuff going on across the Atlantic, where Roe *v.* Wade is being revisited, is very regressive. I do not want us to take a polarised position in Britain. As I have said before in this Committee, the Ealing decision has been challenged at every level—in the High Court, the Supreme Court and the Court of Appeal—and it has always won. Judges have seen that someone having a medical procedure has a right to privacy that trumps freedom of belief, thought, conscience and expression. The two do have to be balanced, and people can have their protest, but not in a way that interferes with women's right to use the public highway, and to have a procedure to which they have been legally entitled for decades—for longer than my lifetime. All the medical opinion supports this approach; it is supported by the British Medical Association, all the royal colleges, the nurses and midwifery people, and even good old Mumsnet, who are not normally seen as militant crazies.

[Dr Huq]

I think I have said my bit for now. As I say, this measure was massively popular when it was a ten-minute rule Bill, and that was at the height of covid, so not everyone was in the building, but I think the numbers in support of it were crushing. If there was a free vote on the measure, I think that the House would support it. The Government should adopt it; they can then show that the Sarah Everard case was not in vain, and that something has been done for women and girls, even though there are zero mentions of the issue in the Bill.

Mrs Natalie Elphicke (Dover) (Con): I agree with the hon. Member for Ealing Central and Acton that the new clause is not about abortion rights. This is a Public Order Bill about the right to protest, the extent of active protesting that seriously disrupts others, and where the balance lies.

The public order subject matter of new clause 1 has been debated previously and was the subject of an in-depth review by the Government in 2018. That review engaged with more than 2,500 people and organisations, and it concluded that national exclusion zones of the type proposed in new clause 1

"would not be a proportionate response, considering the experiences of the majority of hospitals and clinics, and considering that the majority of activities are more passive in nature."

I note the evidence submitted to the Committee by a Mr Damien Fitzgerald, who described in the following way the activity we are discussing:

"Peaceful pro-life vigils are not 'protests'…Pro-lifers at peaceful vigils do not behave in a harassing or intimidating manner. They are simply praying and making it clear that help is available."

That description was echoed in the findings of the Government's review:

"The main activities reported to us that take place during protests include praying, displaying banners and handing out leaflets."

The review went on to say that there were

"relatively few reports of the more aggressive activities described."

Those examples included

"handing out model foetuses, displaying graphic images, following people, blocking their paths and even assaulting them."

Such behaviour is entirely unacceptable and should, like all such activity on any issue, be tackled robustly.

There are existing laws to address personal intimidation and assault, as the then Home Secretary set out at the time of the review. There are also laws that allow local authorities to introduce local exclusion zones, where they believe that to be right. I note what the hon. Member for Ealing Central and Acton says about Ealing Council's order, which has been in place since 2018. I therefore suggest that new clause 1 is wholly unnecessary for addressing the harm that has been outlined. It can be addressed, and indeed is being addressed, under current laws.

On balancing those rights, I note that new clause 1 is considerably wider in scope than the Ealing order. I would be grateful if the hon. Lady explained the reasoning behind the significant widening in the new clause. In particular, the Ealing order relates specifically to protests approving or disapproving of abortion services, but the new clause would criminalise only those who disapprove of abortion services. It seems that any person who wishes to facilitate the provision of such services within the buffer zone, for example by providing a physical or verbal presence in the zone, would not be criminalised by the new clause. That is a considerable difference from the approach taken in the Ealing order.

The Ealing order specifies that the people who are to be protected are service users—the women seeking the services—and those who work in the abortion clinics, but not protesters. Under the Ealing order, where there is a protest and a counter-protest at the same site, all protesters are treated equally, but that is not the case under subsection (1) of the new clause. It favours one side of a protest over another. That is an issue on which the Committee has heard evidence; I will come to that in a moment.

The Ealing order limits the offence to interfering, intimidating, recording or photographing service users or members of staff in the controlled area. New clause 1 contains no such limitation, which raises the question of whether a protester could be criminalised for photographing a counter-protester—not a member of staff or service user—when both are in the buffer zone, or indeed when one is in the buffer zone but the other is outside it.

On "seeks to influence" in subsection (3)(a), I draw the Committee's attention to the evidence we received from Martha Spurrier of Liberty, who said:

"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."—[*Official Report, Public Order Public Bill Committee,* 9 June 2022; c. 74, Q143.]

The new clause seems much broader than the Ealing order, and I would be grateful if the hon. Lady could explain why in detail.

Subsection (2) of the new clause specifies that the buffer zone boundary should be 150 metres from any part of the abortion clinic, or any access point to the site. The hon. Lady stated in evidence:

"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."—[*Official Report, Public Order Public Bill Committee,* 9 June 2022; c. 73, Q143.]

I think she expressed a similar view just now.

The map of the area covered by the Ealing order shows that it has a highly unusual shape. It is a fat T; it covers a long strip of main road along the top, and a section of the park in which the clinic is situated. Reports, including from the BBC, refer to it as a 100-metre buffer zone, rather than a 150-metre one. I would be grateful if the hon. Lady clarified the basis for that, and her understanding of how the measures would operate in different locations. Is it intended, as the drafting suggests, that the buffer zone be a 150-metre circle around the site, or does she envisage a more site-specific approach being taken, as was the case in Ealing? She referred to Ealing, but the new clause does not provide for a site-specific or case-by-case approach.

9.45 am

I draw the Committee's attention to evidence we heard from Mr Sprague of Amnesty. On the management and location of buffer zones, he said:

"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."

The hon. Lady responded:

"I totally agree; it should be considered case by case."—[*Official Report, Public Order Public Bill Committee,* 9 June 2022; c. 74, Q144.]

I repeat that the new clause does not allow for that. Where we find a case-by-case and geographical approach is in the existing provisions, which have been applied by Ealing and others, and which sit in our existing law to manage such demonstrations and counter-demonstrations.

New clause 1(1), on the scope of the offence, proposes a new offence of interfering with abortion services within a geographical place—a buffer zone. Subsection (2) defines the buffer zone as a designated distance from an abortion clinic, but the new clause does not define abortion services or abortion clinics. I hope that the remarks I am about to make might assist the hon. Lady in considering its scope and application.

I am left entirely unclear whether the intent is, as set out in subsection (1), to encompass discussion of the provision of abortion services—that would mean discussing services wherever they are provided, subject only to such services being provided within the buffer zone—or, as subsection (2) seems to indicate, to include only abortion services provided in the specified abortion clinic. I am trying to draw out the difference between the provision of abortion services more generally, and the provision of specific services in an abortion clinic in an exclusion or buffer zone. I ask the hon. Lady to clarify the intent and extent of those two subsections.

I will draw on a real and practical example that may help the Committee to understand the issue. The British Pregnancy Advisory Service centre in east London is within 100 metres of a family doctor's surgery, a couple of hundred metres of a midwifery campus, and a smaller distance of a girls' secondary school. It is in an area of residential homes and retail, educational and other facilities. As I understand it, under new clause 1(5)(a), those working in the BPAS centre are protected from being criminalised under the new clause, even if they interfere by expressing an opinion that is within the scope of the new clause about a woman's decision on whether to proceed with an abortion. However, what is the position of a doctor, midwife, social worker or schoolteacher working in the buffer zone? What would happen to, say, a secondary schoolteacher—someone with responsibility for preparing young adults for life—who teaches biology, religious education or other subjects? Or what if a home is in a buffer zone? Under the new clause, a parent, friend or partner who lived in the buffer zone and had an opinion on this subject could be criminalised for expressing it, even in their home. That does not seem to be the intention of the hon. Member for Ealing Central and Acton or a workable application of the criminal law; it would also be a grave extension of the criminal law from the public to the private space.

The new clause could have serious unintended consequences, and is therefore defective. Any criminal offence should be clearly defined and clearly targeted, but the new clause is neither. The same point applies to those inside the buffer zone who provide abortion services that are unconnected with those provided in the abortion clinic that is exempted from criminality in subsection (5). Under the new clause, people could be guilty of an offence if they provide abortion services that they are legally allowed to provide. I am not just talking about prescribing pills or operating; subsection (3) also covers advising or informing; that could include giving someone a leaflet—even an NHS-approved leaflet—to help them to access wider abortion services.

Abortion services can be provided virtually, through the post or at home, but the new clause seems to provide only for services delivered at a static physical location. That is reflective of an older mode of delivering abortion services. I respectfully suggest that new modes of delivery—post, pills, telephony, virtual face-to-face meetings and so on—need to be considered and reflected in the new clause. Given the virtual and varied delivery model in use, the new clause is both disproportionate and unworkable.

Finally, on the abortion clinic definition, clinics such as BPAS offer a range of services, including vasectomies. Under the new clause, the conditions for an offence would arise if a women was attending a clinic for a lawful termination. What if there were protests about a man attending a clinic for a vasectomy? It is important that provisions be proportionate, workable and necessary, and that, so far as is possible, they apply to all equally.

If the new clause is introduced in its current form, I will examine it in greater depth at a later stage. Today, I simply underline that the new clause fails to set out a public order context for the harm that is being defined and that the hon. Lady intends to prevent. There are already measures, which have been shown to work, that fully address these matters.

These are incredibly emotive and important issues. Women need to be advised and properly protected, and the topic needs to be fully addressed and considered with care. I hope that I have been able to illustrate in this short time that the new clause risks criminalising teachers, doctors, midwives, parents, friends and lovers who, when in a buffer zone, even when they are in their home, give advice or assistance, or even express an opinion about, the important, life-or-death matter of abortion. It is vital that women are able to get the support, advice and guidance they need to make the choice that is right for them. I do not feel that that is provided by the new clause; that ability would be undermined by it. As such, I will not support it.

Anne McLaughlin (Glasgow North East) (SNP): Thank you for allowing me to speak, Mr Dowd, despite my being a couple of minutes late. I am sorry, but I could not find room 10; I could find rooms 9 and 11 but not 10. I thought I was in a Harry Potter plot.

Alex Cunningham (Stockton North) (Lab): It is the one in between.

Anne McLaughlin: Yes, but it does not have a number outside. I was unable to be here last week due to a diary clash, and I apologise for that, although I advised the Committee.

I recall that the previous week the Minister and others in the debate and here today suggested that there is some hypocrisy going on. That is my reason for saying a few words today. I want to explain why they are wrong in their assessment. That said, the measure applies

[Anne McLaughlin]

to England and Wales only, so I will abstain in any vote because, as most colleagues know, the SNP does not vote on matters that do not directly impact on their constituents. However, I will put my name to a motion similar to this at the SNP conference later this year.

The position is not hypocritical, because there is a world of difference between somebody being harassed, as the Minister puts it, by protesters, and being told an airport is not doing enough for climate change. There is a world of difference between that and somebody being told with words, verbally, on a poster, or implied by presence, "You are killing your child. You individually are responsible for the death of your child." That is what those protesters are saying.

I know women who have had abortions, and even those certain from the outset that it is absolutely the only and right choice for them, wrestle with their conscience, and they live with that decision forever. The guilt is there already; they do not need somebody else to make them feel even more guilty, yet that is what the protesters do. Even the ones who silently stand and pray quite often have posters with pictures of foetuses and the message that abortion is murder. It is cruel in the extreme.

Nobody changes their mind once they have got to the clinic. Nobody who turns up at the clinic and who is attacked by someone verbally, on posters or by their presence, stops and says, "Wait a minute—you are right. I am killing my child. I am going to cross the road to you and ask for your help." That does not happen. It is fine for people to have those views and want to offer assistance, but not at that stage and in that way. That is why it is completely different from any other type of protest talked of in the Bill. I am sorry that I cannot vote for it. That is not much good for the hon. Member for Ealing Central and Acton, though others are not going to vote for it anyway. However, I do want to voice solidarity, because I support the gist of what she is trying to do.

Sarah Jones (Croydon Central) (Lab): Given the contributions so far, I will be brief. I want to add to what the hon. Lady has just said and to try to explain that this different, because it stops people getting the medical support that they need.

I have had cause to walk into the abortion clinic in Streatham. On that occasion, I was not getting an abortion but, I promise, if I had been what I saw would have made me feel very scared, guilty and inclined not to go in. Although the protesters were not shouting and yelling, they were judging. For many women—people—that judgment means they want to run away. It was worse when we came out than when we went in. The protesters do not know what has gone on inside, so the judgment when you come out is 10 times worse than when you go in, because the protesters think that you have committed murder. This is a very different matter; it is about getting medical attention that you are entitled to. It is about your legal duty to—

The Chair: May I stop the hon. Lady? I remind hon. Members not to use the second person singular and use "you". The occasional use of "you" is okay but we are now in the territory of multiple uses. Will people please stick to the protocol?

Sarah Jones: Forgive me, Mr Dowd. That was wrong of me. I am going off script, which is why I did that.

We heard in evidence from Liberty that it is supportive of this new clause, because these behaviours are harassment. Even if it is not verbal, it is definitely harassment. I have felt it myself, so I think that this is a very different order of thing. It is in the same category as the kind of debates we have had about people being prevented from getting their vaccines.

I will leave it there. I am very happy to support my hon. Friend the Member for Ealing Central and Acton, as many Members from across the House have done. There is a genuine debate to be had. My hon. Friend is doing an excellent job of keeping this conversation going; it is important that we continue to have it.

10 am

The Minister for Crime and Policing (Kit Malthouse): Given the comprehensive nature of the speeches, not least that of my hon. Friend the Member for Dover, I will keep my remarks short. During the course of the Committee's debates, it has been interesting to hear how Members have tried to strike a balance between the competing rights that we acknowledge exist in society.

The hon. Member for Ealing Central and Acton put her finger on what is basically the entire point of the Bill when she asked, "When is a protest not a protest?" I think we can all agree that there is a case for the rights of the individual to be balanced when anybody faces harassment—people screaming at them, pretending to be protesters; effectively any sort of verbal assault—whether that is on entering an abortion clinic or, indeed, in the case of the women protesters in Bristol at the weekend. These are different situations where we, as democratic politicians, have a duty to try to balance the competing rights on display.

The hon. Member for Ealing Central and Acton has campaigned passionately on this issue; I salute her for her indefatigable pursuit. Her new clause is very similar, if not identical, to one she tabled during the passage of the Police, Crime, Sentencing and Courts Act 2022. The remarks made at the time by the Minister responsible for the Bill—the Minister of State, Ministry of Justice, my hon. Friend the Member for Louth and Horncastle (Victoria Atkins)—are essentially the same as our position now. We believe that a suite of existing offences can handle this harassment, as the hon. Lady knows. The Public Order Act 1986 makes it an offence to display images or words that may cause harassment, alarm or distress, attracting six months' imprisonment or a fine. It also means the police can impose certain conditions on protests.

Dr Huq: Will the Minister give way?

Kit Malthouse: I will give way in a moment. We also have the Protection from Harassment Act 1997, which makes it an offence for someone to pursue a course of action that they know will amount to harassment of someone else; again, this offence attracts six months' imprisonment and/or a fine. There are also the PSPOs, which the hon. Lady talked about. We have three in operation—Ealing, Richmond and Manchester—that have successfully put an end to some of those harmful protests.

The hon. Lady can respond at the end to the points that have been raised. Before she does so, however, I would just say that there are some difficulties with the

scope of her new clause, as my hon. Friend the Member for Dover pointed out. It goes much further than existing PSPOs and covers private dwellings and places of worship that fall within 150 metres of a clinic, as well as other premises where the behaviours she has described would not have the impact of interfering with access, but could be criminalised. That, I am afraid, would be disproportionate. As my hon. Friend said, it would also include doctors in surgeries within 150 metres of a clinic who offer advice to patients about abortions. That too would be disproportionate.

We believe that the argument the hon. Lady made strengthens the case for locally driven responses that take into account local facts, issues and circumstances, rather than a nationwide blanket ban. As my hon. Friend said, we reviewed this matter in 2018, with a further review in 2020. We will continue to keep it under review, particularly by engaging with the National Police Chiefs' Council and local authorities as they see these events unfold.

Based on the evidence, we have concluded that it would not be proportionate to introduce a blanket ban. Obviously, none of the provisions in the Bill that we have talked about so far has imposed a blanket ban. They are all about imposing conditions when a protest crosses the line, as the hon. Member for Ealing Central and Acton says, into being something else—into being a crime. As the hon. Member for Glasgow North East knows, it is possible to impose such conditions in Scotland; we would like to mirror that in England and Wales. The hon. Member for Ealing Central and Acton voted against Second Reading on the basis that the Bill would curtail the right to protest, but here we are with a new clause that puts a blanket ban on protests, rather than placing conditional controls on them that would essentially seek to balance competing rights.

We understand the intentions behind the hon. Lady's new clause, and see her passionate campaigning. I know that she has support from across the House, and that the issue will emerge again, but for the reasons that we have set out, I am afraid that I urge her to withdraw the new clause.

Dr Huq: There is quite a lot of stuff to respond to there. There has been quite a lot of whataboutery. I will start with the hon. Member for Dover. She made a large number of points, and I did not want to stop her flow, because she was reading out her speech so nicely, but there were some misunderstandings. The new clause is not identical to the Ealing order. I think that I explained that the new clause is based on the British Columbia provision, and I am happy to work with the Government to iron out any wrinkles in it. The distance of the boundary of the buffer zone should depend on the situation of the clinic. I understand that the Streatham clinic is in a cul-de-sac, so the buffer zone there would be different.

The Ealing PSPO came in relatively recently, in 2018, whereas the protest there has been going on since the '90s. A great number of people thank me for the PSPO, and say that they can now use the pavement. The hon. Lady described BPAS in east London. I do not know the lay-out of that clinic, but she says that it is in a doctor's surgery. Unusually, in this country, these services tend to be provided in stand-alone clinics. It is different in Scotland, where they are often provided in a hospital.

Mrs Elphicke *rose—*

Dr Huq: Let me finish what I am saying. There are two main providers: BPAS and Marie Stopes, which runs the West London clinic in my constituency. They have stand-alone clinics, and these services are all that the clinics provide. The east London clinic is not known to me. I advise the hon. Lady to take a trip to the Marie Stopes in Maidstone, the nearest one to her, and look at the evidence logs. Getting the PSPO involved presenting the evidence logs.

Mrs Elphicke *rose—*

Dr Huq: The Minister would not take my intervention; he said that I could reply to him in a speech of my own at the end of his. I say the same to the hon. Lady, because I have many points of hers to respond to.

Mrs Elphicke: I am grateful to the hon. Lady for giving way—

Dr Huq: No, I said that I am not giving way.

The Chair: Order. Hon. Members must ask the person speaking if they will give way, and should not carry on talking if the other person is still talking.

Mrs Elphicke: If I—

The Chair: No. To be absolutely clear, when a Member is speaking, and someone wants to intervene, they ask if the Member will accept the intervention. If the Member carries on speaking, they have not agreed to the intervention. Could we follow that process? Otherwise, things will get chaotic.

Dr Huq: I was just saying that the situation is different in Scotland; in England, these services are not usually provided in hospitals. The hon. Member for Dover described a clinic in a doctor's surgery, and said that the new clause would criminalise people—

Mrs Elphicke: Will the hon. Lady give way on that point?

Dr Huq: The hon. Lady is persistent, isn't she?

Mrs Elphicke: I am grateful to the hon. Lady for giving way. That is not what I said; I wanted to clarify, because I think that there has been a factual misunderstanding. I was describing the location of the BPAS centre, and mentioned the things around it—a doctor's surgery, a school, a midwifery clinic. I was not saying that the BPAS centre sits in a doctor's surgery.

Dr Huq: I think there has been plenty of misunderstanding of our two positions. I think that there are about 77 clinics across the country, including in Streatham and Bournemouth. Three local authorities have orders in place; that is a tiny number. I wanted to ask the Minister whether he knows how many prosecutions there have been under the Public Order Act 1986 and all

[Dr Huq]

the other bits and pieces of legislation that he cited. I think it is pretty much zero. Again, there was whataboutery; it was said that the new clause would criminalise people unnecessarily. *[Interruption.]* Yes, exactly; that stuff.

The Chair: Order. Can we let people speak? I do not want shouting across the Committee. If people want to intervene, they need to ask to intervene.

Dr Huq: Thank you, Mr Dowd.

We have heard hypotheticals about the new clause criminalising x, y and z. It has been pointed out that these people are passive and very nice—they hold rosary beads, or whatever. There have been zero prosecutions in Ealing, because these people are actually quite law-abiding, and they have simply moved their protest to the other side of the road. They are complying with the law—I think there was one warning at the very beginning. As I say, the order has been renewed once, in 2018.

My worry is that we are going down a very American sort of route. There are very well endowed groups, largely from across the Atlantic, that fund things such as the research and statistics we have heard. There are several of those groups. There is one called 40 Days for Life that is active every Lent, which shows how these protests are sometimes sporadic. That is why it would be wise to have a consistent approach—I call it consistent, not blanket—where, under the rule of law, every woman has that protection, not just if they live in Ealing, Richmond or Manchester. Every Lent, 40 Days for Life pops up and does a 40-day running protest. Again, that is something that should not be there, but we do not know.

It is claimed that these protests are passive and that the protesters are only praying. I have been trying to explain how that can be intimidatory and psychologically disturbing to women. How many times do we sometimes cross to the other side of the road or go the other way because some bloke looks a bit dodgy? I am disappointed that the hon. Member for Dover, as a sister, did not understand that—although the Minister, as a robust bloke, might not get the same feelings walking down the street that we do. The French version talks about psychological distress, as well.

The hon. Member for Dover described it as peaceful, but that is utterly subjective—it can be quite sinister and chilling to see these people with their rosary beads. The entire thing is designed to affect a termination and to individually shame women. That is what it is about. My hon. Friend the Member for Croydon Central, the shadow Minister, described this experience of running the gauntlet and the onslaught that people can feel, and she was going to a clinic as an observer. She was not even a user. There are examples from America of women staff of these clinics having had their cars booby-trapped. It is really quite alarming. We are going down that road.

We seem to be stuck in a groove in 2018. We have been told there was a review in 2018, but when I have asked questions about this, the Home Secretary has even said that it is under constant review. So what is going on? Have the Government shut the lid—"It was done in 2018; sorry, go away"—or is it under constant review? This issue is dynamic, and it needs to be looked at.

The conclusion in 2018 was that things are not bad enough. How many women are we saying need to be affected? How bad does the threshold have to be? It does not happen at every clinic all the time, but it could happen at any clinic. That is what we should look at. We are talking about 100,000 women a year, and there are other Members with clinics in their seats. The hon. Member for Harwich and North Essex (Sir Bernard Jenkin) and I are very misaligned on Brexit and loads of other issues, but he is my cosignatory on this new clause.

There is just so much I could say. The last time there was a vote on this issue was my ten-minute rule Bill, the Demonstrations (Abortion Clinics) Bill, which passed by 213 votes to 47. The hon. Member for Glasgow North East was saying that the SNP will vote against it. If Members had a free vote, it would be very different. We have seen with the Northern Ireland abortion stuff—

Anne McLaughlin: We will not be voting against it. We will just be abstaining on it because it is our principled stance not to vote for it. I certainly support it.

Dr Huq: I totally get what the hon. Lady is saying. Subject to Supreme Court review, Northern Ireland is about to introduce protections for women using these clinics along these lines. Scotland is very sensibly consulting on this and having a serious conversation. Soon it could be only England and Wales that are in this invidious situation. All the other countries of the Union are going the right way on this.

What I meant is that the hon. Member for Glasgow North East said that the SNP will vote against it. When offered a choice, when not subject to whipping, Members who have clinics in their seats know the trouble caused to ordinary clinic users—to ordinary street users—all the time.

10.15 am

The hon. Member for Dover described the east London BPAS and the road it is on. Our Marie Stopes in west London is on a thoroughfare that has on it a kids' theatre group—my son did Questors acting classes, so I had to take him down that road a lot—and a prep school, a private boys' school. Lots of kids use the road, and the parents were saying, "Can you take this ugly stuff away from here? It's embarrassing." It is ordinary people, not necessarily women seeking abortions, who are grateful for what we have in Ealing. However, that using the orders was a last resort, because there was no other way—it was imaginative thinking outside the box: "Ooh, let's use this ASBO legislation."

We need a consistent approach, if we agree with consistency before the law and with the ability of women to use the public highway or the pavement unimpeded. After Sarah Everard, we said, "She was only walking home." Every woman should be allowed to do that. Have we learnt nothing? This is a golden opportunity. Yes, there might be difficulties with 150 metres or 100 metres—I would say do it with an appropriate distance, depending on where the clinic is—but we could iron that out. The Minister, the shadow Minister, my hon. Friend the Member for Croydon Central, and I could work something out, with all the experts and the evidence that has been given.

The hon. Member for Dover cited very selective evidence. The Select Committee on Home Affairs, when my right hon. Friend the Member for Normanton, Pontefract and Castleford (Yvette Cooper) was Chair, also had an inquiry and took evidence. It, too, concluded that something should be done. It seems a shame that the door was shut in 2018, although I have heard encouraging sounds about review. The Bill could therefore be improved.

As for the stuff about giving out leaflets, Conservative Committee members should speak to the Conservative party in Ealing—though it is no longer the opposition in the council; that is the Lib Dems since the elections. When we had the vote on Ealing Council in 2018, two medical professionals, doctors, who are Conservative councillors, spoke movingly in the council chamber on how the leaflets being given out are medically inaccurate—giving out completely bogus information: is it called fisking or filleting, or something?

Yes, people should have advice, counselling and all that stuff, but not on the day, when they are queuing up. All the research shows that people will postpone their procedure, possibly never to come back. For the people protesting—or harassing or praying, or whatever we call it—that is a victory, and we should not allow such people victory; we should allow women to use the street.

I could go on and on, but I think I have probably said enough.

The Chair: Does the hon. Lady wish to press the new clause to a vote?

Dr Huq: My ideal would be to sit down with the Government to make something better. I will not press the new clause to a vote today, because I think it can be improved—I take those points—so I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 2

HOSTILITY TOWARDS SEX OR GENDER

"(1) After Section 5 of the Public Order Act 1986 insert—

'5A

Offences aggravated by sex or gender

(1) An offence under section 5 of this Act is aggravated by sex or gender where the offence is—

(a) aggravated by hostility toward the sex or gender of the victim,

(b) of a sexual nature, or

(c) both of a sexual nature and aggravated by hostility toward the sex or gender of the victim.

(2) A person guilty of an aggravated offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

(3) It is not a defence under this section that a person did not believe that there was any person within hearing or sight who was likely to be caused harassment, alarm or distress if a reasonable person in possession of the same information would think that there was a person within hearing or sight who was likely to be caused harassment, alarm or distress.

(4) An offence is "aggravated by hostility towards the sex or gender of the victim" for the purposes of this section if—

(a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's sex or gender (or presumed sex or gender); or

(b) the offence is motivated (wholly or partly) by hostility towards members of a group based on their sex or gender.

(5) In this part, gender has the same meaning as in the Gender Recognition Act 2004.'

(2) Part 3A of the Public Order Act 1986 (Hatred against persons on religious grounds or grounds of sexual orientation) is amended as follows—

(a) In the heading for Part 3A at the end insert 'or grounds of sex or gender'.

(b) In the italic cross-heading before section 29A at the end insert 'and hatred on the grounds of sex or gender'.

(c) After section 29AB insert—

'29AC

Meaning of "hatred on the grounds of sex or gender

29AC In this Part "hatred on the grounds of sex or gender" means hatred against a group of persons defined by reference to their sex or gender.'

(d) In the italic cross-heading before section 29B at the end insert 'or hatred on the grounds of sex or gender'.

(e) In section 29B(1) at the end insert 'or hatred on the grounds of sex or gender'.

(f) In section 29C(1) (publishing or distributing written material) at the end insert 'or hatred on the grounds of sex or gender'.

(g) In section 29D(1) (public performance of play) at the end insert 'or hatred on the grounds of sex or gender'.

(h) In section 29E(1) (distributing, showing or playing a recording) at the end insert 'or hatred on the grounds of sex or gender'.

(i) In section 29F(1) (broadcasting or including programme in programme service) at the end insert 'or hatred on the grounds of sex or gender'.

(j) In section 29G(1) (possession of inflammatory material) at the end insert 'or hatred on the grounds of sex or gender'."—*(Alex Cunningham.)*

Brought up, and read the First time.

Alex Cunningham: I beg to move, That the clause be read a Second time.

The new clause was tabled by my hon. Friend the Member for Walthamstow (Stella Creasy), to whom I pay tribute for her tireless campaigning on this issue. Last year, when we were debating the Police, Crime, Sentencing and Courts Bill, I and my Labour colleagues on the Bill Committee spoke at length about how the Government were missing a golden opportunity to take robust action to protect women and girls from the violence and harassment that they face every day. Sadly, however, the Government chose to miss that opportunity, instead pushing the Bill through without any consideration of the steps that they could take to ensure that women and girls were able to go about their lives without worrying about their safety.

You can imagine, Mr Dowd, how pleased I was last week when, about to present my private Member's Bill on the Floor of the House, I heard the right hon. Member for Tunbridge Wells (Greg Clark), a few Bills ahead of mine, presenting his Protection from Sex-based Harassment in Public Bill to make provision against

[Alex Cunningham]

causing intentional harassment, alarm or distress to a person in public when the behaviour is done because of that person's sex. I do not know whether he was seeking some form of review or specific action, but clearly there is support for such measures in all parts of the House. It is time for the Government to put aside all the talk about acting on misogyny and to accept the new clause. Furthermore, given the Minister's speech in the debate on new clause 1, I feel somewhat encouraged that he, too, is ready to take some action.

Last week I received a letter from the hon. Member for Louth and Horncastle, who is the Minister for ending violence against women and girls. She provided an update on the Government's response to the end-to-end rape review. She ended her letter by saying:

"Thank you for your engagement on these crucial issues. Violence against women and girls is a global problem and it is our collective mission to support victims and bring perpetrators to justice. I look forward to working with you to address these crucial issues and bring about the transformational change that victims deserve."

I found that message extremely heartening because she is, of course, correct that we need to work together in all parts of the House as a collective to improve the dire outcomes that women and girls face when seeking justice. I hope the Minister will share that sentiment, engage positively with the substance of the proposed new clause and accept that it should be included in the Bill.

I know that the Minister will be aware of the scale of the problem, which affects women and girls across the county on a daily basis. Some 66% of girls in the UK have experienced sexual attention or sexual or physical contact in a public space. That gets worse with age: a report by UN Women UK published in January 2021 showed that in a poll of 1,000 women, 71% had experienced sexual harassment in a public space. That figure rose to 97% for women under 25. That harassment, intimidation and abuse never shows up in formal crime statistics, not because it is not serious enough, but because women do not think that going to the police will help.

House of Commons Library data shows that half a million crimes against women go unreported every year, and women are less likely than men to report abuse to the police. Research shows that two thirds of women experience abuse or harassment in public places, but 80% of them do not report those crimes to the police as they do not believe they will be addressed or taken seriously.

There are two reasons why it is so important that these supposedly lower-level offences are taken seriously by the police and the criminal justice system. First, those who perpetrate violence against women are often repeat offenders whose violence and abuse shows a pattern of escalation. That is not to say every misogynist who shouts at women in the street goes on to violently attack women, but many of those who do carry out such attacks start by throwing verbal abuse. If we can identify, monitor and—where necessary—restrict those who commit the early offences, we will be better able to prevent the all-too-familiar pattern of escalation before it has dire consequences.

Secondly, by letting these offences go unregistered or unpunished, we are sending a message about how seriously—or not—we take violence against women and girls. If someone is abused because of their sexuality, ethnicity or religion, the law rightly says that the abuse—based on who someone is—is unacceptable. Unfortunately, the law does not say the same thing if someone is abused simply for being a woman or a girl.

We all recognise that more needs to be done to tackle misogynistic abuse, but if we do not act, we are endorsing a legal system that is permissive of such abuse. If we do not act, we are endorsing a system that sees women repeatedly targeted but then choosing not to report the crime because they—too often rightly—suspect that it will not be treated as seriously as it should. I cannot repeat that fact enough: until we demonstrate that the law is on the side of women and girls, most of them will not report the abuse, which we ought to recognise as crimes.

The proposed new clause would be a crucial first step in tackling the harassment and abuse that women and girls face every day. It would, in simple terms, put in place harsher sentences for those who commit abuse or harassment motivated by misogyny or misandry. Sentences would be set at the same level as intentional harassment, allowing courts to recognise the higher degree of culpability that these crimes should carry. It would, for the first time, recognise that there is something particularly damaging about targeting someone solely because of their sex, in the same way that we do if someone is targeted for other aspects of their identity.

During the passage of the Police, Crime, Sentencing and Courts Act 2022 in the other place, the Minister there said that the Government would bring forward a consultation on public sexual harassment. That was some time ago, but I am afraid there are two reasons why I do not think that is an appropriate solution. First, a myopic focus on sexual harassment ignores other harassment that women and girls face on a daily basis. If the focus is narrowed to only behaviour that is explicitly sexual or for the purposes of sexual gratification, conduct such as ripping off a Muslim woman's hijab would not be covered.

That would be counterproductive, because it would suggest that such behaviour is somehow less serious than sexual harassment, and it would prevent the police from gathering crucial information about patterns of offending. Instead, we need to adopt the approach that the new clause takes and recognise that, at its root, sexual harassment is about power and hostility, and we should treat it as such. We should not separate out sexual abuse from sexist abuse; we should treat them as symptoms of the same underlying problems.

The second reason is that we all know that a Government consultation is absolutely no promise of action. Indeed, the Government's own adviser on sexual harassment has said that both she and the Home Secretary are supportive of action, but the idea is being vetoed by those higher up in Government. Given how few people are able to overrule the Home Secretary, the Minister will forgive me if I am sceptical that a Government led by the current Prime Minister will take action on sexual harassment without being pressed to do so.

Even putting those misgivings aside, this is not an issue that can wait for the slow cogs of Government policy making to engage. If we do not take the opportunity that the new clause offers us, it could be years before we have another opportunity to act. In that time, millions more women will experience this behaviour and not

report it because they know our legal system does not treat it with the seriousness it deserves. I appreciate that we are yet to see the detail of the Protection from Sex-based Harassment in Public Bill, in the name of the right hon. Member for Tunbridge Wells. Whatever measures he may succeed in introducing, however, it could be a year or more before they take effect. We can take out the uncertainty now and prevent further delay.

Proposed new subsection (2) is aimed at those who may never carry out a violent or abusive act themselves, but who may encourage others to do so. Encouraging racial or homophobic abuse is already a criminal offence, and rightly so. As we have seen across the world, and during the tragic events in Plymouth last year, there are people out there who seek to stir up hatred of women for no reason other than that they are women. That is clearly unacceptable, and I was pleased that the Law Commission recommended last year that we bring our laws into the 21st century and tackle the stirring up of misogynistic and misandrist hatred.

I am sure the Minister will say that the Government are considering very carefully what the Law Commission has said and will respond in due course, but we know that when it comes to radicalisation, every day can make a difference. Every day that the Government delay is another day in which poisonous ideologies, such as so-called incel culture, have a chance to spread further and do more damage to the fabric of our society. This new clause would enable us to skip the inevitable delays of Government going back and forth over an issue when the right course of action is clear to us all, and immediately tackle those who seek to spread such hate. I know that the Government may act eventually in this area, but I appeal to the Minister and other Government Members to put an end to it all—end the talk about the issues I have raised, end the delay in taking action and back the new clause.

Anne McLaughlin: I certainly support properly acknowledging and tackling crimes motivated by sex or gender, but this new clause applies to England and Wales only, so I will abstain, in keeping with my party's aforementioned stance. However, I think it would be useful for Members to look at the report commissioned by the Scottish Government on misogyny, entitled "Misogyny—a Human Rights Issue". The independent working group was headed up by Baroness Helena Kennedy QC from the other place, and the report was published on International Women's Day, 8 March—also my birthday, if anybody wants to put that in their diary. The recommendations were described by the First Minister as "bold" and "far reaching". It would be great to have both Governments working together on this.

I offer my solidarity with the hon. Member for Walthamstow (Stella Creasy) and the hon. Member for Stockton North, who has just given a really good speech, on the issues that they are trying to tackle with the new clause. I could say a lot more about misogyny—we all could—but I think he has covered it really well.

10.30 am

Kit Malthouse: The matter of whether and where sex or gender fits into hate crime legislation was, as the hon. Member for Stockton North has said, subject to significant deliberation during consideration in the previous Session, only six weeks ago, of the Police, Crime, Sentencing and Courts Act 2022. Before that, it was widely discussed during consideration of the Domestic Abuse Act 2021. Both Houses had an opportunity to express their views and come to a settled position, and I am afraid that I do not believe matters have changed since then. The hon. Gentleman has cited some distinction between new clause 2 and the previous attempts of the hon. Member for Walthamstow to amend the law in this area, but the essential issue remains the same. I suggest that we should consider hate crime laws in the round, rather than seeking to pick off individual items in a piecemeal way.

Let me deal first with the new clause's proposed new section 5A to the Public Order Act 1986. To put it into ordinary language, it is an attempt to introduce a new offence of public sexual harassment. I remind Members that during debate on the Police, Crime, Sentencing and Courts Act in the previous Session, the Government committed—as the hon. Gentleman has said—to launch a consultation before the summer recess. I can confirm that that remains our intention. We are finalising those plans now, so given that undertaking, I am a bit surprised that the hon. Member for Walthamstow has tabled this new clause, as its effect would be to pre-empt that consultation. I have my views on the intrinsic merits of new clause 2, but it would be fairer and better for us to wait for that consultation to run its course and then draw our conclusions from it.

The other part of the new clause would amend part 3A of the Public Order Act, which deals with what could be described in shorthand as hate speech offences. The hon. Lady has in the past cited recommendation 23 of the Law Commission's review, which does, in a basic sense, endorse the notion that those offences be extended to cover sex or gender. However, I am afraid that that overlooks a crucial detail: while the Law Commission dedicated just over 10 pages to that extension, it dedicated more than 70 pages to the need for those offences to be fundamentally reformed. The new clause does nothing to contribute to such reform, but root-and-branch change is needed, given that these are hate speech offences. They have the basic potential to significantly chill free speech, and are an area of law in which public consent for change must be carefully considered. The Law Commission noted that those offences represent

"some of the most controversial aspects of hate crime laws."

There are also issues with the current legislation that we first need to grapple with. The Law Commission noted that the legal defences for people accused of those crimes are currently unclear, and certain terms used in the legislation are legally ambiguous. Most importantly, it tempered all proposals to expand the law with a condition that doing so must be coupled with provisions that make clear what is not criminal. For each characteristic added to the law, those so-called free speech provisions would clarify that merely offensive speech on topics related to such characteristics is not in itself a crime. The Law Commission noted that, particularly in relation to gender identity,

"without such protection, activists would seek to test the limits of the extended offence."

The new clause does not account for those free speech protections. More broadly, it does nothing to reform the existing provisions as the Law Commission proposes; it only adds to the statute book, whereas the Law Commission suggests repeal and replacement.

[Kit Malthouse]

In short, any reform of these laws would need to be comprehensive. If it is not, we risk compounding the problems in the law that the Law Commission identified and potentially harming free expression rights. We would essentially be building on very shaky foundations. The Law Commission found that one change is usually interdependent with another. As the hon. Member for Stockton North has said, the Government are actively considering all of the Law Commission's recommendations, and I can assure the Committee that we are putting the final touches on the Government's response to all 34 of the Law Commission's recommendations and will publish that response shortly. I think it would be wiser for the Committee and, indeed, the House to wait for its publication. We do not think it is wise to put the cart before the horse, so I encourage the hon. Gentleman to withdraw the new clause.

Alex Cunningham: First, I know that the hon. Member for Glasgow North East cannot change the policy of the Scottish National party on the hoof, but I ask her to think about her sisters in England and Wales. Moreover, I do not think it is necessary for the Government to look at anything that has been brought forward by the Scottish Government or any other organisation, because the evidence on this issue is staring us in the face. We do not need additional evidence to prove that this sort of change in the law is needed.

The Minister mentioned how we have talked about these issues in the past while debating this or that Act, or this or that review. We have talked about it till the cows come home, but nothing has actually happened—there has not yet been any change in the legislation. He said that the Government are still hoping to launch their consultation ahead of the summer recess. On Monday we will be five weeks away from the summer recess. While the Minister says that they are still hoping for this, that does not give him very much time, especially if he does not actually know when it is going to start happening. Now is the time for action. He said that the Law Commission says that the law in this area is unclear. I am inviting the Committee to make it clear today by supporting the new clause. For that reason, I will be pushing it to a vote.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 6, Noes 8.

Division No. 6]

AYES

Chamberlain, Wendy	Huq, Dr Rupa
Cunningham, Alex	Jones, Sarah
Elmore, Chris	McCarthy, Kerry

NOES

Anderson, Lee	Malthouse, rh Kit
Elphicke, Mrs Natalie	Mann, Scott
Hunt, Tom	Mohindra, Mr Gagan
Longhi, Marco	Vickers, Matt

Question accordingly negatived.

New Clause 3

OFFENCES IMPEDING EMERGENCY WORKERS

"(1) This section applies where—

(a) the court is considering for the purposes of sentencing the seriousness of an offence under sections 1 (*Offence of locking on*) or 3 (*Obstruction etc of major transport works*) of this Act, and

(b) the commission of the offence had the effect of impeding an emergency worker in exercising their functions, subject to the exception in subsection (2).

(2) The exception is that the emergency worker was exercising their functions in connection with the offence for which the person is being sentenced or in connection with any action which the court considers to be related to that offence.

(3) The court—

(a) must treat the fact mentioned in subsection(1)(b) as an aggravating factor (that is to say, a factor that increases the seriousness of the offence), and

(b) must state in open court that the offence is so aggravated.

(4) In this section, 'emergency worker' means—

(a) a constable;

(b) a person (other than a constable) who has the powers of a constable or is otherwise employed for police purposes or is engaged to provide services for police purposes;

(c) a National Crime Agency officer;

(d) a prison officer;

(e) a person (other than a prison officer) employed or engaged to carry out functions in a custodial institution of a corresponding kind to those carried out by a prison officer;

(f) a prisoner custody officer, so far as relating to the exercise of escort functions;

(g) a custody officer, so far as relating to the exercise of escort functions;

(h) a person employed for the purposes of providing, or engaged to provide, fire services or fire and rescue services;

(i) a person employed for the purposes of providing, or engaged to provide, search services or rescue services (or both);

(j) a person employed for the purposes of providing, or engaged to provide—

(i) NHS health services, or

(ii) services in the support of the provision of NHS health services,

and whose general activities in doing so involve face to face interaction with individuals receiving the services or with other members of the public.

(5) It is immaterial for the purposes of subsection (4) whether the employment or engagement is paid or unpaid.

(6) In this section—

'custodial institution' means any of the following—

(a) a prison;

(b) a young offender institution, secure training centre, secure college or remand centre;

(c) services custody premises, as defined by section 300(7) of the Armed Forces Act 2006;

'custody officer' has the meaning given by section 12(3) of the Criminal Justice and Public Order Act 1994;

'escort functions' —

(a) in the case of a prisoner custody officer, means the functions specified in section 80(1) of the Criminal Justice Act 1991;

(b) in the case of a custody officer, means the functions specified in paragraph 1 of Schedule 1 to the Criminal Justice and Public Order Act 1994;

'NHS health services' means any kind of health services provided as part of the health service continued under section 1(1) of the National Health Service Act 2006 and under section 1(1) of the National Health Service (Wales) Act 2006;

'prisoner custody officer' has the meaning given by section 89(1) of the Criminal Justice Act 1991."—*(Mrs Elphicke.)*

Brought up, and read the First time.

Mrs Elphicke: I beg to move, That the clause be read a Second time.

I move the new clause on behalf of my hon. Friends the Members for Thurrock and for Blackpool North and Cleveleys (Paul Maynard). Right hon. and hon. Members will be more than aware of the disruption and danger caused by offences involving locking on and obstructing major roads, which have caused gridlock and stopped emergency services getting through during recent severe protests.

New clause 3 seeks to ensure that the particular and additional harm of preventing emergency services—police, ambulances and the fire service—is included as an aggravating factor in the primary offences considered for conviction under clauses 1 and 3 of the Bill, rather than relying on a separate offence. The new clause would provide a more effective and appropriate reflection of the total harm caused by the additional seriousness of blocking emergency workers getting to people in need. I am grateful to the Committee for its consideration of the new clause.

Sarah Jones: I will keep my comments very brief. As the hon. Lady has said, the new clause would create an aggravated offence when someone in the course of locking on or obstructing major transport works impedes an emergency worker in exercising their function.

We did not support the clauses that new clause 3 relates to—those being clause 1, "Offence of locking on" and clause 3, "Obstruction etc of major transport works". We will not be supporting the new clause today, but we believe very strongly in the principle of emergency workers being able to exercise their functions. In other parts of the Bill, we have talked about adding emergency workers to the list of critical national infrastructure necessary for the country to function as we want it to. Although we are sympathetic to the principle that emergency workers are crucial and need to be exercising their functions in any way they need to, we will not support it today because it is attached to parts of the Bill that we do not support.

Kit Malthouse: I am grateful to my hon. Friend the Member for Dover. We all sympathise with the intentions of the new clause, initially tabled by my hon. Friend the Member for Blackpool North and Cleveleys. It is completely unacceptable that a small minority of individuals cause significant disruption, and it is even more unacceptable when that disruption strays beyond delaying or inconveniencing the public and into interfering with the emergency services. We all remember well the scenes of ambulances stuck in traffic on the M25, and thank God that there was no major fire that the fire service needed to get to, or a worse incident. Such behaviour is unacceptable and the new clause seeks to ask the courts to account for this behaviour when convicting individuals for obstructing major transport works and for locking on in particular. I applaud my hon. Friend's support for the new clause.

As I have said previously, however, acts that obstruct emergency workers from exercising their functions are sadly not new and are—happily, perhaps—already illegal under existing law. The Emergency Workers (Obstruction) Act 2006 already makes it an offence to obstruct without reasonable excuse an emergency worker such as a police officer or paramedic from responding to an emergency. It also provides an offence of hindering someone assisting an emergency worker in responding to an emergency. Anyone found guilty of those offences faces an unlimited fine.

Given that there are existing legal remedies, we do not believe it necessary to legislate to direct courts to consider using the maximum penalties available to them when sentencing individuals convicted of locking on or obstructing transport works in those scenarios. Courts can already consider a whole range of aggravating and mitigating circumstances presented to them by the prosecution and defence when deciding whether to convict a defendant and impose a sentence proportionate to their crime. When assessing cases relating to the two offences mentioned in new clause 3, courts may wish to consider impeding emergency workers as an aggravating factor, but that is a decision for them. While we understand the intention behind the new clause, we hope that my hon. Friend will withdraw it at this stage.

Mrs Elphicke: I am grateful to the Minister for his comments and ask him to consider in greater detail whether the action is sufficient. This was a probing new clause, which I spoke to on behalf of my hon. Friends the Members for Thurrock and for Blackpool North and Cleveleys. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 8

PUBLICATION OF DATA ABOUT USE OF STOP AND SEARCH POWERS

"(1) The Secretary of State must publish data about the use of the stop and search powers under sections 6 and 7 within three years of—

(a) if sections 6 and 7 come into force on the same date, the date on which they come into force, or

(b) if sections 6 and 7 come into force on different dates, the later of those two dates.

(2) The data published under this section must include—

(a) the total number of uses of stop and search powers by each police force in England and Wales, including whether the powers were used on suspicion or without suspicion,

(b) disaggregated data by age, disability, ethnicity/race, sex/gender and sexual orientation of the people who have been stopped and searched, and

(c) data relating to the outcomes of the use of stop and search powers."

Brought up, and read the First time.

Dr Huq: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 9—*Review of the use of stop and search powers*—

"(1) The Secretary of State must appoint an independent reviewer to assess and report annually on the use of the stop and search powers under sections 6 and 7.

(2) In carrying out their review, the person appointed under subsection (1) must—

[The Chair]

(a) consider the impact of the use of stop and search powers on groups with protected characteristics under the Equality Act 2010, and

(b) consult such civil society organisations as appear to the person appointed under subsection (1) to be relevant.

(3) The person appointed under subsection (1) must ensure that a report on the outcome of the review is sent to the Secretary of State as soon as reasonably practicable after the completion of the review.

(4) On receiving a report under this section, the Secretary of State must lay before Parliament—

(a) a copy of the report, and

(b) the Government's response to the findings.

(5) The first report under this section must be completed no later than one year after the date provided for under section [publication of data about use of stop and search powers](1)."

Dr Huq: These new clauses are authored by my hon. Friend the Member for Battersea (Marsha De Cordova) and address clauses 6 and 7 of the Bill, on stop and search. New clause 8 would make it mandatory for the Home Office to collect data on how stop and search is going—demographic data on who it affects, how old they are and what ethnic group they are from. New clause 9 would create a new position of an independent reviewer, who would then assess the use of the powers.

Over the past few days and weeks, we have heard how this Bill criminalises protest tactics and potentially drags more people into the criminal justice system. My hon. Friend and I would say that it is people from black and minority ethnic communities who will suffer the most. They are already over-policed and targeted by the authorities. There were the notorious sus laws in a former age. It took quite a lot of good will between the police and the former Prime Minister, the right hon. Member for Maidenhead (Mrs May), to ease tensions, but now I feel that we are going backwards here.

10.45 am

The provisions on protest-specific stop-and-search powers are really quite disturbing. The expansion of stop-and-search powers will entrench racial disproportionality in the criminal justice system and has the potential to erode trust in public institutions. Suspicionless stop and search has the potential to poison relations between communities and to feed mistrust. We want to build in some safeguards to ensure that that does not happen.

The Bill will amend section 1 of the Police and Criminal Evidence Act 1984 to expand the types of offences that allow a police officer to stop and search a person or vehicle. Most worrying of all, it will extend suspicionless stop-and-search powers to the protest context, so that police officers will be able to stop and search a person or vehicle without suspicion—on a whim—if they reasonably believe that certain protest-related offences will be committed in the area.

We get the figures. I think that black and minority ethnic people are eight times more likely to be stopped and searched than non-BME people. Despite the ongoing revelations regarding the misuse and racist application of stop-and-search powers, the Government have none the less decided to roll them out even further. This is counterproductive. Decisions to lift restrictions on police stop-and-search powers will damage trust, as I have said, between black, Asian and ethnic minority communities and the police.

I will just outline the difference between new clauses 8 and 9. New clause 8 would make it mandatory for the Home Office to publish disaggregated data on stop and searches under clauses 6 and 7. Let us collect the data; let us see who is being stopped. That would be a very sensible thing to do. It would allow stakeholders to assess which groups were the most impacted by the clauses. There is that expression that sunlight is the best disinfectant. If people say that this provision will not do what we say it will, let us see the data. I do not see what is controversial about that at all. The Government claim that black, Asian and ethnic minority people will not be affected, as the clauses are specific to protests, not to the skin colour of the person protesting, so let us see; let us collect the data.

We know that, over the last few years, protests have been vital to these communities—I can call them "our communities"—in order to advocate and organise. We saw the Black Lives Matter protests last summer. Historically, there were the protests in New Cross. We can construct a long list of where protests have taken place. There were the Cherry Groce protests—there have been loads of them.

New clause 9 would create the new position of an independent reviewer to assess the data and make recommendations to the Home Secretary on the impact of the use of stop-and-search powers on groups with protected characteristics under clauses 6 and 7. The buck would stop with that individual. It would not be a full-time post—the great and the good could all apply for it. The reviewer could come up with a report after up to four years, so they could take a rain check on how this was going. The independent reviewer's role would be to inform the public and political debate on stop-and-search laws. They would do that through annual reports prepared for the Home Secretary; as I said, the first would be in up to four years' time. They would report to the Home Secretary and they would audit what was going on.

The uniqueness of that role would lie in its complete independence from Government. The reviewer would be like the independent reviewer of terrorism legislation—that sort of person. In performing the role, they would be required to speak with the widest possible range of people. They could collect qualitative data as well; they could speak to social scientists—they could take a multi-method approach for their reports. They would speak to the widest possible range of people with experience of how stop-and-search laws operate.

These are very sensible new clauses that would just build some safeguards into what is coming.

Sarah Jones: I rise to support my hon. Friends the Members for Ealing Central and Acton and for Battersea on the sensibleness of the new clauses.

Requiring the Secretary of State to publish data, and requiring the establishment of an independent reviewer to assess and report annually, seems to me to be the very least that the Government should be doing when they are bringing in such a broad range of powers. We know that there is significant concern—we have debated it at length—about the extension to protests of stop and

search in both its forms, including suspicionless stop and search. There are organisations and representatives of the police who are worried about the potential disproportionality of those parts of the Bill. The College of Policing and the inspectorate have all looked at stop and search and said that it can erode trust between the police and local communities and that it is disproportionate. My hon. Friend the Member for Ealing Central and Acton listed the stats on that.

Publishing the data is an easy thing to do, and I hope the Home Office would do it anyway. Establishing an independent reviewer is easy to do—Lord Geidt may be free. There will be other good people who could do the job. With such a significant expansion of police powers, it really would be alarming if we did not do those things. I hope the Government will consider new clauses 8 and 9.

Kit Malthouse: I will speak first to new clause 8. The Home Office continues to publish extensive data on the use of stop and search to drive transparency, as the hon. Lady for Ealing Central and Acton requested. In 2021, for the first time, we collected and published data on the age and gender of all individuals stopped and searched, alongside our long-standing collection of data on ethnicity. That allows us to create a clearer picture on how stop and search is used and how best to build on the existing trust and confidence held between the police and the community they serve.

I want to make it clear that, as with all stop and search, nobody should be stopped and searched under the new powers because of their ethnicity or on the basis of any other protected characteristic. I know that the hon. Lady did not mean to imply that the police operation of stop and search is, as she said, "racist" at the moment. There are complicated reasons that sit behind the disproportionality in stop and search, which undoubtedly exists in some parts of the country, that we need to be conscious of and address. However, she will also be aware that there are safeguards in place, including the use of body-worn video and statutory guidance in code A of the Police and Criminal Evidence Act 1984, and those safeguards will also apply to the new powers in the Bill. Data on their use will be collected and published, broken down by age, gender and ethnicity—including the outcome of the search—as it is for existing stop-and-search powers.

Sarah Jones: I want to make the point that we do not actually know what causes the disproportionality. That is why the National Police Chiefs' Council and the College of Policing are going to do a lot of work in that space. We do not have the answers, so we do not definitively know what is causing it. A lot of people suspect it is racism in the police force; a lot of people think it might be other things. We do not actually know.

Kit Malthouse: The hon. Lady is making exactly my point. I am afraid that the hon. Member for Ealing Central and Acton did use the word "racist" regarding the operation of stop and search. I was refuting that as a conclusion that may be drawn. There are complicated reasons behind the disproportionality in stop and search, and we all have a duty to try to understand what they may be.

Sometimes, there are statistical anomalies. There is a well-known anomaly in Dorset from a couple of years ago where a couple of drug dealers travelled down to deal drugs and they were stopped and searched. They happened to be from a BME background. Even though they were the only two people who were stopped and searched during that period, that stop and search and their apprehension as drug dealers meant that someone was 40 times more likely to be stopped and searched in that part of Dorset if they were from a BME background.

There are lots of complicated reasons that we need to understand about the disproportionality, and I am not downplaying the significance of it. As somebody who has fought crime in London during my political lifetime, I am very conscious of the impact it can have. I have sat and worked with all communities across London, particularly those affected by very serious violence, to understand the impact of stop and search. I have to say that body-worn video, in particular, is making a huge difference.

On new clause 9, I agree with the hon. Lady that independent oversight of the use of intrusive powers is essential. We all expect the police to use their stop-and-search powers as they see fit and to scrutinise their use of powers to ensure they remain focused, legitimate, proportionate and necessary. However, it is also true that having an independent body increases accountability and enhances the service officers are giving to the public.

I am pleased, therefore, to remind the Committee that we are fortunate to have two independent bodies that already perform that vital task. First, Her Majesty's inspectorate of constabulary and fire and rescue services inspects forces on their use of stop and search as part of their annual inspections, and makes recommendations for improvement where needed. That allows the public to see whether their local force is meeting the high standards we expect. Forces should be able to explain their use of stop and search, including any disparities, to HMIC and the public, and we expect forces to respond to the inspectorate's recommendations with alacrity.

Secondly, the Independent Office for Police Conduct provides a function through which complaints about police use of stop and search can be investigated. It is also able to issue recommendations to which forces are legally obliged to respond. As the "Inclusive Britain" report set out, the Government also recognise the importance of scrutiny by local communities. We are already enhancing these safeguards through the development of a national framework for community scrutiny of stop and search.

I know the hon. Lady will join me in praising the hard work of those two independent bodies in scrutinising police powers, and indeed the hard work of the police in using stop and search over the past couple of years to remove about 50,000 knives from the streets. I hope I have offered her some reassurance that we are conscious of our duty to deal with disproportionality, and that the existing safeguards and structures, as well as the new powers in the Bill, will be aligned with respect to that responsibility. On that basis, I hope she will withdraw the new clause.

Dr Huq: I hear what people have said, but the new clause would make the publication of data mandatory. The Minister has said that there are statistics around, but the new clause would make that a targeted, mandatory

[Dr Huq]

thing, given the huge increase in stop-and-search powers. He said that I called their application at the moment racist, but I spoke, in fact, about revelations and allegations. That would be flushed out by having statistical data that we could see—is it the case or not? There is this whole whataboutery point; people are saying, "This will criminalise a whole load of people, and it will be black and ethnic minority people who are hit hardest by it." Let us publish the data and see.

As for the independent reviewer, we have that with other things, such as terrorism. In the interests of openness and transparency, we should be overseeing these things. The Minister talked about the IOPC, but it takes years for a complaint to go through it, whereas this measure would mean an ongoing, dynamic process of collecting figures. Yes, nobody should be subject to racist stop and search, but Members should look at the figures, which cause one to think, "Oh, what's going on here?" Let us have the data.

Question put and negatived.

New Clause 9

REVIEW OF THE USE OF STOP AND SEARCH POWERS

"(1) The Secretary of State must appoint an independent reviewer to assess and report annually on the use of the stop and search powers under sections 6 and 7.

(2) In carrying out their review, the person appointed under subsection (1) must—

(a) consider the impact of the use of stop and search powers on groups with protected characteristics under the Equality Act 2010, and

(b) consult such civil society organisations as appear to the person appointed under subsection (1) to be relevant.

(3) The person appointed under subsection (1) must ensure that a report on the outcome of the review is sent to the Secretary of State as soon as reasonably practicable after the completion of the review.

(4) On receiving a report under this section, the Secretary of State must lay before Parliament—

(a) a copy of the report, and

(b) the Government's response to the findings.

(5) The first report under this section must be completed no later than one year after the date provided for under section [publication of data about use of stop and search powers](1)."—*(Dr Huq.)*

Brought up, and read the First time.

Question put, That the clause be read a Second time.

Question negatived.

New Clause 10

GUIDANCE ON LOCKING ON

"The Secretary of State must by regulations issue guidance to police forces about the protest technique of locking on, which includes—

(a) examples of best practice, and

(b) detailed guidance on addressing new and developing forms of locking on."—*(Sarah Jones.)*

Brought up, and read the First time.

Sarah Jones: I beg to move, That the clause be read a Second time.

New clauses 10, 11 and 12 are in similar vein, and are about checks and balances to go alongside the legislation about which we have significant concerns. New clause 10 would mandate the Secretary of State to issue guidance to police forces on the protest technique of locking on, including the sharing of best practice and detailed guidance on addressing and developing forms of locking on.

11 am

New clauses 10, 11 and 12 are guided by the report from Matt Parr, "Getting the balance right?" These are recommendations, thoughts and words from his report. When I asked Chief Constable Chris Noble about these issues, he confirmed their importance and benefit to the police. I would welcome the Minister's thoughts. I will not speak at length because the new clause speaks for itself.

Kit Malthouse: The new clause introduces a requirement on the Home Secretary to issue statutory guidance to the police on responding to lock-ons. While we agree that the Government should guide the police in the exercise of their powers, the police already have specialist teams trained to remove protesters from lock-ons. These teams continually develop their knowledge and training to keep pace with innovations in locking on, and I believe that the police themselves are best placed to develop guidance on the matter. Given that, I ask the hon. Lady to withdraw the new clause.

Sarah Jones: I thank the Minister for his comments. We suggest that the College of Policing and the National Police Chiefs' Council would develop the detail—we do not suggest that us legislators would do that—but I am happy to withdraw the new clause because he has said that there will be significant guidance. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 11

CONSOLIDATED PROTEST GUIDANCE

"(1) Within three months of Royal Assent to this Act, the Secretary of State must by regulations issue guidance which consolidates into a single source—

(a) the College of Policing's authorised professional practice for public order guidance,

(b) the National Police Chiefs' Council's operational advice for protest policing, and

(c) the National Police Chiefs' Council's protest aide memoire.

(2) The Secretary of State must regularly review the guidance and, if appropriate, must by regulations issue revised consolidated guidance.

(3) The consolidated guidance must include specific updated guidance about the protest technique of locking on."—*(Sarah Jones.)*

Brought up, and read the First time.

Sarah Jones: I beg to move, That the clause be read a Second time.

The new clause makes provision for consolidated protest guidance, bringing together the College of Policing's public order authorised professional practice, the NPCC's operational advice for protest policing and the NPCC's protest aide-mémoire. The guidance must also include specific updated guidance about the protest technique of locking on. Similarly to the previous new clause, new clause 11 would help the police—in what we think is a broadly-defined piece of legislation—gather the guidance and equip themselves with the statistics necessary to do their job to the best of their ability. If the evidence sessions pointed to anything, it was that at the top of the police, there are good practices of introspection. They talk about and share good practice and want to scrutinise what is done well and what is done badly. The new clause merely puts that in law.

On training, Matt Parr believed that more could be done—although he was complimentary in some areas. The Minister talked about the specialist forces. He highlighted that that was patchy. When it comes to provisions on the policing of protests in this legislation, the NPCC remains concerned about some aspects of the document's commentary, which it felt were open to misinterpretation. For that reason, we think it would be better to have that clarity in the law, which the new clause seeks to do.

Kit Malthouse: Although I recognise the hon. Lady's intent on the issue, I struggle to see the benefit of the new clause. Protest guidance is the responsibility of the police and the College of Policing. She referred to a recommendation from Her Majesty's inspectorate of constabulary and fire and rescue services on the policing of protests. The College of Policing is responsible for setting standards, providing training and sharing good practice for police forces. It is best placed to implement the recommendation. In fact, the college has already acted on it, and an updated public order authorised professional practice can be found on its website. The APP has consolidated guidance and links to other relevant guidance. I understand that it will be continually reviewed and updated.

Given that the effect of the new clause is already in place, we will not be supporting it. The inspectorate has sensibly recommended that the updating and management of national protest guidance is done by the College of Policing. It is the body with the knowledge and expertise to provide guidance to police forces. We do not see what benefit placing that obligation on the Government would bring, so I ask her to withdraw the new clause.

Sarah Jones: Although we will not press the new clause to a vote, I hope that I have put on the record the Labour party's concern and our expectation that the Minister will come back to discuss with us the guidance that will be issued to ensure that the Bill is implemented as effectively as possible. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 12

NATIONAL MONITORING TOOL

"(1) The Secretary of State must develop a consistent national monitoring tool, accessible by all police forces, to monitor the use of or requests for specialist protest officers across England and Wales.

(2) Data collected under this section may be used to evaluate capacity and demand for specialist protest officers across England and Wales.

(3) The monitoring tool must be accessible on a national, regional and local basis.

(4) The monitoring tool must include—

(a) examples of best practice from policing protests across the United Kingdom, and

(b) data on how many trained officers have been required for any protests during the period in which monitoring took place."—*(Sarah Jones.)*

Brought up, and read the First time.

Sarah Jones: I beg to move, That the Clause be read a Second time.

The new clause would require the Secretary of State to develop a consistent monitoring tool that is accessible by all police forces to monitor the use of, or requests for, specialist protest officers across England and Wales. Data that is collected may be used to evaluate capacity and demand for specialist officers. The tool, which must be accessible nationally, regionally and locally, could include examples of best practice from policing protests and data on how many trained officers have been required for any protest during the monitoring period.

I will not go into more detail than that, as the new clause speaks to arguments that we have already made for new clauses 10 and 11.

Kit Malthouse: In effect, the new clause brings back a clause that was initially tabled to the Police, Crime, Sentencing and Courts Act in January 2022 on Report. As the hon. Lady said, it would require the creation of a monitoring tool.

As the Government stated in the House of Lords in January, such a tool is not necessary. The National Police Co-ordination Centre, which is known as NPoCC and is part of the National Police Chiefs' Council, already co-ordinates and monitors the use of and requests for protest removal-trained officers across the UK. Furthermore, following recommendations by the inspectorate, the police's national public order and public safety lead is already working on an evaluation of the requirement for specialist protest officers.

On the sharing of best practice, the College of Policing has, as I have said, updated the existing authorised professional practice on public order and public safety policing. That resource is easily accessible to all forces and will help them to understand best practice when policing protests. On the basis that this House should legislate only when it is strictly necessary, and that such work is already under way, I ask the hon. Lady to withdraw the motion.

Sarah Jones: It is slightly alarming that the Minister fails to understand the concept of checks and balances to ensure that such a serious and significant piece of legislation is properly implemented, but I will not divide the Committee. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 13

INJUNCTION TO PREVENT SERIOUS DISRUPTION TO EFFECTIVE MOVEMENT OF ESSENTIAL GOODS OR SERVICES

"(1) Upon an application by a person under subsection (4), an injunction may be ordered by a Judge of the High Court against 'persons unknown' in order to prevent a serious disruption to the effective movement of any essential goods or any essential services occasioned by a public procession or public assembly.

(2) The 'persons unknown' may be—

(a) anonymous persons taking part in a public procession or public assembly who are identifiable at the time of the proceedings; and/or

(b) persons not presently taking part in a public procession or public assembly protest but who will in future join such a public procession or public assembly.

(3) The conditions under which such an injunction may be granted are as follows—

(a) there must be a real and imminent risk of a tort being committed which would result in a serious disruption to the effective movement of any essential goods or any essential services;

(b) a method of service must be set out in the order which may reasonably be expected to bring the proceedings to the attention of the 'persons unknown';

(c) the 'persons unknown' must be defined in the order by reference to their conduct which is alleged to be unlawful;

(d) the acts prohibited by the order must correspond with the threatened tort;

(e) the order may only prohibit lawful conduct if there is no other proportionate means of protecting the effective movement of essential goods or essential services;

(f) the terms of the order must set out what act or acts the persons potentially affected by the order must not do;

(g) the terms of the order must set out a defined geographical area to which the order relates; and

(h) the terms of the order must set out a temporal period to which the order relates, following which the order will lapse unless a further order is made upon a further application by the applicant.

(4) An applicant for an injunction to prevent serious disruption to effective movement of essential goods or services may be—

(a) a local authority with responsibility for all or part of the geographical area to which the proposed order relates;

(b) a chief constable with responsibility for all or part of the geographical area to which the proposed order relates; or

(c) a person resident in, or carrying on a business within, the geographical area to which the proposed order relates.

(5) 'Serious disruption to effective movement of essential goods or services' includes a prolonged disruption to—

(a) the effective movement of the supply of money, food, water, energy or fuel;

(b) a system of communication;

(c) access to a place of worship;

(d) access to a transport facility;

(e) access to an educational institution; or

(f) access to a service relating to health."—*(Sarah Jones.)*

Brought up, and read the First time.

Sarah Jones: I beg to move, That the Clause be read a Second time.

The clause makes specific provision for an injunction to prevent serious disruption to the effective movement of essential goods or services, and sets out the circumstances in which an injunction may be granted against "persons unknown". Those circumstances are based on the principles set out in paragraph 82 of the Court of Appeal's 2020 decision in Canada Goose UK *v.* Persons Unknown. The clause also sets out the parties that may apply for such an injunction. They are:

"a local authority with responsibility for all or part of the geographical area to which the proposed order relates; a chief constable with responsibility for all or part of the geographical area to which the proposed order relates; or a person resident in, or carrying on a business within, the geographical area to which the proposed order relates."

The new clause uses the definition of "serious disruption" that was introduced in the House of Lords during the later stages of the passage of the Police, Crime, Sentencing and Courts Act 2022. I put on the record again my disagreement with the definitions of serious disruption—which include "noise"—in subsections 12(2C) and (2E) of the Public Order Act 1986, which section 73 of the 2022 Act inserted. We have had significant debates on that issue, and I will not rehearse them again, but I will quote the right hon. Member for Hereford and South Herefordshire (Jesse Norman), who said in a letter to the Prime Minister:

"No genuinely Conservative government should have supported the recent ban on noisy protest—least of all when basic human freedoms are facing the threat of extinction in Ukraine."

Although the definition of "serious disruption" is not perfect, the Opposition welcome the fact that a definition has been put in the Bill to replace the original provision, which would have left the Secretary of State to decide what serious disruption means. It is right that this definition remains subject to a power to amend these provisions. As the right hon. Member for Maidenhead said:

"It is tempting when Home Secretary to think that giving powers to the Home Secretary is very reasonable, because we all think we are reasonable, but future Home Secretaries may not be so reasonable."—[*Official Report*, 15 March 2021; Vol. 691, c. 78.]

New clause 13 focuses on the definition in proposed new subsection (2A)(b) to section 12 of the 1986 Act, as inserted by the 2022 Act. It puts into statute the case law principles from the Canada Goose case, which allowed injunctions to be taken out against "persons unknown", so these ideas are not new. The new clause puts into statute what already exists in case law, so if the Government oppose it, they are opposing existing case law decided by the judiciary.

The new clause allows local authorities, affected residents or business owners and chief constables to work together to prevent the kinds of serious disruption we have seen in the Just Stop Oil protests, protests against HS2 and in actions by Insulate Britain. The definition of "persons unknown" includes

"persons…who will in future join such a public procession or public assembly",

So this new clause is putting into statute a law that already exists.

It is not necessary, as we have argued throughout the Bill Committee debates, to bring in unnecessary and complex new offences when there is a raft of existing

laws that the police, local authorities and businesses can use to deal with protest that disrupts essential goods and services.

Subsection (3) sets out

"the conditions under which such an injunction may be granted",

and it is clear that

"the acts prohibited by the order must correspond with the threatened tort".

That word was new to me but I now understand what it means, although I will not go into it now. Also, there

"must be a real and imminent risk of a tort being committed which would result in a serious disruption to the effective movement of any essential goods or any essential services".

Police officers have told us that some of the most effective measures they use in the face of potentially serious disruption are injunctions. The NPCC protest lead, Chris Noble, said:

"The feedback we have had is that when they are appropriately framed and developed at an appropriate pace, they can be very useful in terms of what we are trying to control and how we are trying to shape people's behaviour... Injunctions have been used increasingly frequently, but the challenge is framing them appropriately and securing them within a reasonable timescale so they can have maximum impact."—[*Official Report, Public Order Public Bill Committee,* 9 June 2022; c. 8, Q7.]

How long it can take public and private authorities to get injunctions in place is a problem, and we acknowledge that they are costly, but the cost of responding to seriously disruptive protest must fall somewhere and there is a conversation to be had about that balance.

Nicola Bell, regional director of Highways England, said that

"once people saw that injunctions were being followed through, committal proceedings were happening and people were going to prison, that did have a deterrent effect".—[*Official Report, Public Order Public Bill Committee,* 9 June 2022; c. 28, Q57.]

HS2 said that

"injunctions do serve as a relatively effective deterrent to unlawful…activity by some groups of protestors".

The courts take them seriously, the judicial oversight ensures that the powers are not misused and they can have faster enforcement processes than for individual offences.

HS2's written evidence, talking about its route-wide civil injunction, said:

"Whilst, if granted, it is hoped that the route-wide injunction will significantly reduce disruption to the project caused by trespass and obstruction of access, it is unlikely to eliminate the problem."

The police tell us they are frustrated by private companies and public authorities not acting fast enough to seek injunctions, and therefore leaving the responsibility to tackle disruption to the police, instead of taking on the responsibility themselves.

If people are in trouble, it is fairer that they have their eyes open to that possibility beforehand. For similar reasons, a clear injunction about what specific actions a person may not take is likely to be a better deterrent than criminal offences which are vaguer than a specific injunction.

I want to leave sufficient time for the Minister to make his points, but an injunction warns a person beforehand what they must not do. If they breach the injunction, they do so in the knowledge that it could lead to proceedings against them, so it is fairer. For similar reasons, a clear injunction about what specific actions a person may not take is likely to be a better deterrent than criminal offences, which are vaguer than a specific injunction.

It may also be easier to prove a breach of an injunction than to make good a criminal charge, so it may also be a more efficient way to enforce protection of vital infrastructure. We think this is a route that exists already and is there in case law, and so we have put it on the face of the Bill.

11.15 am

Kit Malthouse: As the hon. Lady said, new clause 13 looks to create a framework that allows local authorities, chief constables, residents, and business owners in an area to apply for an injunction to prevent serious disruption to the effective movement of essential goods or services. She quite neatly illustrates the problem with prescriptive definitions, but has created a new one with the notion of "prolonged". I am not sure how long she thinks prolonged should be. Nevertheless, these are naturally definitions that we have in the past left to the courts.

We agree with the hon. Lady that injunctions have an important part to play in the response to the criminal protests, as we have seen this past year. However, we are not clear what she is trying to achieve with the amendment. As we have seen with Insulate Britain and Just Stop Oil protests, injunctions can already be taken out by businesses and local authorities to prevent protesters from causing serious disruption to the effective movement of essential goods or services. Unlike the proposed new clause, the wider measures already in the Bill change the status quo, providing greater protection against the guerrilla activism that we have seen from recent protest groups.

We recognise the need to ensure better co-ordination of injunctions. However, the new clause does not address this challenge. We have heard the calls from the Opposition on this, and the Government are exploring what more can be done at a national level to protect key infrastructure and prevent disruption to the flow of essential goods and services. The clause as it stands does not deliver meaningful change. It creates a definitional problem of its own. Given that, I urge the hon. Lady to withdraw her amendment.

Sarah Jones: I am grateful to the Minister for saying that he is exploring what more can be done and for accepting that injunctions have a role to play. I suspect that members of the other place may want to return to this at another stage, so I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Title

Amendment made: 24, in title, line 2, leave out "delegation" and insert "exercise". *—(Kit Malthouse.)*

This amendment is consequential on NC4.

Bill, as amended, to be reported.

11.17 am

Committee rose.

Written evidence to be reported to the House

POB17 Sue Vallance

POB18 Alice Thompson

POB19 Johanna Ryan

POB20 Eliane Haseldine

POB21 Network for Police Monitoring (Netpol)