

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### VICTIMS AND PRISONERS BILL

*Fifth Sitting*

*Tuesday 27 June 2023*

*(Morning)*

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CLAUSE 1 under consideration when the Committee adjourned till this day  
at Two o'clock.

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**not later than**

**Saturday 1 July 2023**

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**The Committee consisted of the following Members:**

*Chairs:* JULIE ELLIOTT, STEWART HOSIE, † SIR EDWARD LEIGH, MRS SHERYLL MURRAY

- |   |   |
|---|---|
| † Antoniazzi, Tonia ( <i>Gower</i> ) (Lab)                        | † Jones, Fay ( <i>Brecon and Radnorshire</i> ) (Con)          |
| † Argar, Edward ( <i>Minister of State, Ministry of Justice</i> ) | Logan, Mark ( <i>Bolton North East</i> ) (Con)                |
| † Baillie, Siobhan ( <i>Stroud</i> ) (Con)                        | † McMorris, Anna ( <i>Cardiff North</i> ) (Lab)               |
| † Bell, Aaron ( <i>Newcastle-under-Lyme</i> ) (Con)               | † Nici, Lia ( <i>Great Grimsby</i> ) (Con)                    |
| † Butler, Rob ( <i>Aylesbury</i> ) (Con)                          | † Phillips, Jess ( <i>Birmingham, Yardley</i> ) (Lab)         |
| † Champion, Sarah ( <i>Rotherham</i> ) (Lab)                      | † Reeves, Ellie ( <i>Lewisham West and Penge</i> ) (Lab)      |
| † Colburn, Elliot ( <i>Carshalton and Wallington</i> ) (Con)      | † Throup, Maggie ( <i>Erewash</i> ) (Con)                     |
| † Daby, Janet ( <i>Lewisham East</i> ) (Lab)                      | Anne-Marie Griffiths, Bethan Harding, <i>Committee Clerks</i> |
| † Eagle, Maria ( <i>Garston and Halewood</i> ) (Lab)              |   |
| † Heald, Sir Oliver ( <i>North East Hertfordshire</i> ) (Con)     | † <b>attended the Committee</b>                               |

# Public Bill Committee

Tuesday 27 June 2023

(Morning)

[SIR EDWARD LEIGH *in the Chair*]

## Victims and Prisoners Bill

9.25 am

**The Chair:** We will now start line-by-line consideration of the Bill. *Hansard* would be grateful if you could email any speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk), or pass them to the *Hansard* colleague present. The selection list for today's sitting is available in the room. It shows how the selected amendments have been grouped together for debate. Amendments grouped together are generally on the same, or a similar, issue.

Please note that decisions on amendments take place not in the order they are debated but in the order they appear on the amendment paper. The selection list shows the order of debates. Decisions on each amendment will be taken when we come to the clause to which it relates. Decisions on new clauses will be taken once we have completed consideration of the Bill's existing clauses. Members wishing to press a grouped amendment or new clause to a Division should indicate when speaking to it that they wish to do so.

### Clause 1

#### MEANING OF "VICTIM"

**Sarah Champion** (Rotherham) (Lab): I beg to move amendment 2, in clause 1, page 1, line 16, at end insert—

- “(e) where the person has experienced, or made allegations that they have experienced—
- (i) sexual abuse, sexual harassment or sexual misconduct, or
  - (ii) bullying or harassment not falling within paragraph (i).”

*This amendment would extend the definition of “victim” to include someone who has experienced, or made allegations that they have experienced, sexual abuse, sexual harassment or sexual misconduct, or other bullying or harassment.*

**The Chair:** With this it will be convenient to discuss amendment 3, in clause 2, page 2, line 25, at end insert—

- “(3A) The victims' code must make provision in relation to people who have experienced, or made allegations that they have experienced—
- (a) sexual abuse, sexual harassment or sexual misconduct, or
  - (b) bullying or harassment not falling within paragraph (a).
- (3B) Provision under subsection (3A) must include—
- (a) provision relating to the enforcement of non-disclosure agreements signed by such victims, and
  - (b) provision about legal advice and other support for such victims in cases where they are asked to sign, or have signed, a non-disclosure agreement.
- (3C) In this section—
- ‘non-disclosure agreement’ means an agreement which

purports to any extent to preclude a victim from—

- (a) publishing information about a relevant complaint, or
- (b) disclosing information about the relevant complaint to any one or more other persons;

‘misconduct’ means—

- (a) sexual abuse, sexual harassment or sexual misconduct, and
- (b) bullying or harassment not falling within paragraph (a); and

‘relevant complaint’ means a complaint relating to misconduct or alleged misconduct by any person.”

*This amendment would require the victims' code to include specific provision for people who have experienced, or made allegations that they have experienced, sexual abuse, sexual harassment or sexual misconduct, or other bullying or harassment.*

**Sarah Champion:** I appreciate the opportunity to serve under your guidance once again, Sir Edward. I rise to speak in support of amendments 2 and 3, tabled by the hon. Member for Oxford West and Abingdon (Layla Moran). It is important that the Bill aims to improve end-to-end support for victims of crime and to amplify victims' voices in the criminal justice system. The amendments focus on a widespread practice that disempowers victims and silences their voices: non-disclosure agreements. NDAs are contracts that were created to protect trade secrets, but when used incorrectly they become secret settlement contracts used to buy the silence of a victim or whistleblower. They have become the default solution for organisations, corporations and public bodies to settle cases of sexual misconduct, racism, pregnancy discrimination and other human rights violations.

In some cases, those in charge do not even realise that an NDA was used. NDAs have become boilerplate contractual language for so many organisations, and they are extremely harmful. They most often protect an employer's reputation and the career of the perpetrator, not the victim, who could be protected by a simple one-sided confidentiality clause. They prevent a victim from speaking out and accessing the support they need by preventing them from reporting, speaking to family and friends about their experiences, or warning others. In one case of a university student who signed a gagging clause after she had been sexually assaulted, the agreement was so poorly explained that she took it to mean that she could not even speak to her own GP.

We have had this discussion many times before, specifically in relation to a different piece of legislation: the Higher Education (Freedom of Speech) Act 2023, an amendment to which, tabled by Lord Collins of Highbury, sought to restrict universities from using NDAs in cases of harassment and bullying. The Government accepted that amendment. I and many others who have campaigned on this issue were delighted that students gained that protection in the 2023 Act. If students should be protected from NDAs and gagging clauses, why would the same not apply to other victims? Amendments 2 and 3, tabled by the hon. Member for Oxford West and Abingdon, are intended to do ensure that it will.

Amendment 2 would expand the definition of a victim to expressly include victims of harassment, including sexual abuse, sexual harassment, sexual misconduct or other forms of bullying. Amendment 3 would then

make provision in the victims code for those victims relating to non-disclosure agreements. The language of the amendments was drawn from the 2023 Act—language that the Government have already agreed to. As I said, the protection should not be limited to students; every victim deserves the right to speak out.

We have a golden opportunity with the Bill to enshrine in law the principle that no victim should be silenced, prevented from speaking out about their experiences and scared away from vital support services. There is support across the House for these changes—I refer to amendment 1, tabled by the right hon. Member for Basingstoke (Dame Maria Miller)—and I hope that the Minister will accept the amendments, seize the moment, take firm action and stamp out this practice once and for all.

**Maria Eagle** (Garston and Halewood) (Lab): It is a pleasure to serve under your chairmanship today, Sir Edward. I hope the Minister will consider accepting these amendments. I can well see that he might have some concerns about what he may see as an open-ended extension of the definition of victims. I can see that, in the position he is in—deciding on policy—he may come to the view that a line has to be drawn somewhere when we define victims.

The Bill's current definition does extend to a wide range of people, and there are other amendments and concerns that may extend that definition to an even wider range. As somebody who has been in the Minister's position, making policy decisions about where a line ought to be drawn in the middle of a grey area, I understand that there is a natural tendency to resist. I hope he will resist that natural tendency in this particular instance, because my hon. Friend the Member for Rotherham has made a compelling case and the amendments are important.

One of the worst aspects of being subjected to this kind of behaviour is not being able to talk about it afterwards. One understands why an employer would like to obtain a non-disclosure agreement. As my hon. Friend the Member for Rotherham said, it has become a standard clause that anybody negotiating such a settlement on behalf of the employer would stick into every agreement in any instance; I imagine they are all drafted on computer systems ready to be simply splurged out at the drop of a hat. But the consequence for the individual who is signing up to the agreement—not always, as my hon. Friend has made clear, with the full information about what the legal implications are, and what they do and do not cover—can be extremely damaging, not only in the immediate aftermath of such an agreement, but possibly for years into the future.

Surely the Minister will accept, as I am sure you would, Sir Edward—although not in this Committee, of course—that the whole point of the victims code is to try to minimise the impact on victims by giving rights and access to provisions that enable them to recover swiftly from whatever it is that they have undergone that ends up causing them an issue. That is surely the very definition of what the victims code is meant to be doing. It would therefore be an omission if the amendments were not accepted.

Although I fully understand the concerns the Minister might have about extending the pool of people who may fall into the definition in the legislation, it would be

remiss of the Government to exclude this particular group, who really do need such assistance. I hope that he will have something positive to say to us about these amendments when he gets to his feet.

**Anna McMorris** (Cardiff North) (Lab): I want to speak to these important amendments, which have been brought forward by my hon. Friend the Member for Rotherham. Amendment 1 gets to the heart of what the Bill is all about. It would ensure that there is no impediment to providing evidence of behaviour that may be criminal misconduct after signing a non-disclosure agreement.

We have all seen examples of these agreements. Some simply attempt to buy off the victim and halt any prospect of them using knowledge of a person or an organisation which may have been the perpetrator of any kind of criminal misconduct, ranging from financial impropriety to sexual assault. The agreements work by effectively threatening people that if they decide to share their experience or knowledge, they will be subject to costly sanctions.

I hope the Committee will agree that individuals or organisations trying to hide their criminality using non-disclosure agreements is not only wrong, but that it is also a licence to get away with all manner of activity that could lead to large fines and even imprisonment. Why should someone responsible for sexual assault be able to hide away? They should not be. Amendment 3, importantly, would ensure that that protection is enshrined in the victims code, which we will get to later. We want to ensure that there is no wriggle room to allow potential criminals to escape the law because of, in effect, an agreement that is designed to do just that.

Amendment 2 could also be said to sit at the heart of the Bill; we absolutely support the essence of the amendments. Amendment 2 would add to the clause the specific definition of a person who

“has experienced, or made allegations that they have experienced...sexual abuse, sexual harassment or sexual misconduct, or...bullying or harassment”.

We want to work constructively with the Government, and I hope that we can start now, with the Minister addressing the serious concerns that Committee members have raised, particularly my hon. Friend the Member for Rotherham who moved the amendment. We need amendments to significantly strengthen the Bill—which we finally have, eight years after it was first proposed.

**The Minister of State, Ministry of Justice (Edward Argar)**: It is a pleasure to serve under your chairmanship, Sir Edward. I am grateful to the hon. Member for Rotherham for raising this important topic and enabling the amendments tabled by the hon. Member for Oxford West and Abingdon (Layla Moran)—and, by extension, my right hon. Friend the Member for Basingstoke (Dame Maria Miller)—to be debated in Committee.

The amendments recognise that non-disclosure agreements are misused if they prevent someone from speaking about an experience of crime, for example, to relevant professionals. Amendment 1, though not selected for debate, is intended to include those who have signed NDAs that prevent them from speaking about criminal conduct in the definition of a victim. Amendment 2 and 3, which I will turn to shortly, are intended to go a little further—potentially beyond criminal conduct. I will address that point in a second.

[Edward Argar]

Although confidentiality clauses can serve valid purposes—for example, to protect commercially sensitive information—the Government have been clear, as I think is the Opposition’s position, that they should not be used to prevent disclosures to the police, regulated health and care professionals, legal professionals and others. It is illegal for an NDA to be used to conceal a criminal offence, pervert the course of justice or stop someone co-operating with the police. As the hon. Member for Rotherham alluded to, we have already made reforms around the use of NDAs in higher education.

I know that the hon. Members who tabled, signed and spoke to the amendments are particularly interested in ensuring that individuals are aware of their ability to access support, regardless of having signed an NDA. Anybody who has suffered harm as a direct result of criminal conduct, regardless of whether that crime has been reported or is covered by an NDA, is already covered as a victim under part 1 of the Bill and the victims code. That means that they are entitled to access relevant support services, and, as the Law Society guidance on the matter makes clear, it would not normally be appropriate for non-disclosure agreements to prohibit disclosure to professionals for legal, medical or therapeutic reasons. In most circumstances, those qualified professionals would be bound by a duty of confidentiality to their client.

**Maria Eagle:** The Minister makes an excellent point, but how does he get across to those who have signed non-disclosure agreements that they are not restricted in the way in which the law requires that they be unrestricted if nobody has told them that? Could he do something to ensure that those who sign such agreements get proper information about what they really mean?

**Edward Argar:** I am grateful to the right hon. Lady. I do not want to test the Committee’s patience too much with the amount of notes that I have, but I will come to her point. I hope that I can give her a little succour in terms of her asks of me in her speech.

I reassure Members that if anybody suffers harm as a result of sexual abuse, bullying or harassment, where that behaviour amounts to criminal conduct it is already covered by the definition of a victim in part 1 of the Bill. Therefore amendment 1, which would include those individuals explicitly in the definition, could be deemed unnecessary, as they are already covered. However, I will turn to amendment 1 in my final remarks.

Amendments 2 and 3 seek to go further to include those who have experienced behaviour that may be covered by a non-disclosure agreement but which is not criminal. As the right hon. Member for Garston and Halewood alluded to, that would expand the definition. We are clear that we have to strike the appropriate balance in drawing the definition in a way that is practical and functional but that does not exclude those who we feel should be included. Part 1 of the Bill seeks to restrict the definition to victims of crime, and we believe that that is the right approach. However, I suspect we will debate on the coming amendments and over the course of today whether that balance has been struck and whether that line has been drawn in the right place. We may disagree on some elements; I expect we will explore that further today.

The relevant definition of a victim is focused on improving support services for victims of crime and increasing oversight to drive up standards of criminal justice agencies working with victims of crime. That does not mean that individuals who have suffered as a result of behaviour that is not criminal, albeit harmful, are prevented from seeking support. Outside the provisions in the Bill, they can still access support services where those are available to them.

Amendment 3 would require the victims code to include provisions for those who have experienced or made allegations that they have experienced sexual abuse, sexual harassment or sexual misconduct, or other bullying or harassment. It would also require the code to include provisions for those who have signed NDAs for those incidents.

It is vital that the victims code works for different types of victims. The code covers a wide range of entitlements for victims of different crimes and with different needs. To give us the broadest flexibility to serve the changing needs of victims without having to amend primary legislation, we have not explicitly listed entitlements or specific provisions for particular types of victims in the Bill, as the amendment would do. Instead, we have placed the overarching principles of the victims code in primary legislation and specified that the code can provide different entitlements for different types of victims.

We believe that is the right approach to allow the flexibility to amend the code and to reduce the risk of inadvertently excluding some groups of victims or the relevant provision that the code should make for them. The Bill as presently drafted means that the code could include provision about the matters referenced in the amendment, where they relate to victims of behaviour that amounts to criminal conduct. We have committed to consult on an updated victims code after the passage of the Bill. As mentioned on Second Reading, I am open to working with Members on whether we can go further in that respect.

I appreciate the points made by the right hon. Member for Garston and Halewood, by the shadow Minister the hon. Member for Cardiff North, and by the hon. Member for Rotherham and the sponsors of the amendments. Therefore, although I encourage the hon. Member for Rotherham not to press the amendments to a Division at the moment, I am happy to work with her and other hon. and right hon. Members, including those who support the amendments, to explore further before we reach Report stage whether there might be something we can do to help address their concerns.

As I say, I do not believe that amendments 2 and 3 as drafted are the right approach. I am looking carefully at the issues addressed by amendment 1. I am not in a position to make any firm commitments at this point, other than to work with the hon. Member for Rotherham and others to further explore this important issue. With that, I hope that she will consider not pressing this amendment to a Division.

**Sarah Champion:** I thank the Minister very much for his welcome words. I echo the point made by my right hon. Friend the Member for Garston and Halewood about the chilling effect of NDAs, and the lack of awareness of victims. That is at the nub of what we are trying to address.

I know there is a lot of interest in this issue across the House, so I will withdraw the amendment so that we can debate it on Report. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Anna McMorris:** I beg to move amendment 10, in clause 1, page 1, line 16, at end insert—

“(e) where the person has experienced anti-social behaviour, as defined by section 2 of the Anti-social Behaviour Act 2014, and the conditions necessary for an ASB case review under section 104 of that Act have been met.”.

*This amendment would include victims of anti-social behaviour in the definition of a victim.*

As the Committee may be aware, our sessions in Committee will run over ASB Awareness Week, which is poignant. It is quite disappointing to be here today, fighting once again to have antisocial behaviour victims protected in the Bill.

**Janet Daby** (Lewisham East) (Lab): Does my hon. Friend agree that victims of antisocial behaviour are indeed victims of crime and should be included in the victims code?

9.45 am

**Anna McMorris:** My hon. Friend makes a very good point. The Government have repeatedly ignored advice on this, so I am here again to be a voice for the voiceless, who will remain voiceless if the Bill passes unamended.

Rachel Almeida, assistant director for knowledge and insight at Victim Support, told us last week that a huge number of victims are impacted by persistent antisocial behaviour. She said:

“We agree that there needs to be a threshold for it to be persistent ASB, but we believe that their not having any rights means they are unable to access the support that they really need.”—[*Official Report, Victims and Prisoners Public Bill Committee, 20 June 2023; c. 71, Q148.*]

**Ellie Reeves** (Lewisham West and Penge) (Lab): As constituency MPs, we all receive reports of antisocial behaviour. A constituent came to me because her neighbour regularly throws human waste out of the window. Can it really be right that she would not be considered a victim under the Bill?

**Anna McMorris:** My hon. Friend is absolutely right. I do not think there is a Member here who does not have discussions with constituents, has not received casework about it, and has not seen antisocial behaviour when they are and about. This is a major issue that needs to be addressed, and the amendment would address it.

Antisocial behaviour can make victims’ lives a living nightmare, causing stress, misery and despair. It can often be the precursor to very serious crimes, including knife crime and gang activity, so it is important that it is taken seriously by the agencies that respond to it.

For example, if I had ordered a new outfit online and it was delivered to my house and left in the doorway, and someone pinched it, that would be a crime. It would be an unfortunate or upsetting incident, but it would have minimal impact on my wellbeing, because I could request a new outfit or get a refund. As a victim of that crime,

I would be eligible for support services to help me cope and recover, regardless of whether I thought that was necessary. I would be eligible for all the rights under the victims code, including having my complaint recorded.

If I were a victim of antisocial behaviour, the situation would be entirely different. I might have people parked outside my home drinking, being disruptive, throwing cans into my garden, kicking a ball against my wall, and coming back night after night, swearing, spitting and being aggressive. I would feel persecuted in my own home and so targeted that I might become afraid of leaving the house. The longer it persisted, the more traumatised I would become. But as a victim of antisocial behaviour, I would have no access to victims’ rights and no guarantee of support. That disparity must end.

Dame Vera Baird KC, the former Victims’ Commissioner for England and Wales, told us last week that a key problem with the Bill is that it does not deal with people who suffer from serious antisocial behaviour.

**Sir Oliver Heald** (North East Hertfordshire) (Con): Was not the point that Dame Vera was making that there are cases of antisocial behaviour that are criminal behaviour, but for some reason the police and others do not treat them as criminal matters? They say, “Well, that’s antisocial behaviour—a matter for the council.” Is this a question of amending the Bill, or is it about changing the attitudes of those who investigate these matters?

**Anna McMorris:** I am just talking to the point that Dame Vera Baird made. We absolutely need that change, but we also need this amendment to ensure that things change for the victim and they can access those services.

**Sir Oliver Heald:** The clause refers to a person “being subjected to criminal conduct”.

A lot of the things that the hon. Lady has mentioned—harassment, threatening behaviour and all those sorts of things—are criminal offences, it is just that they are not treated in the way they should be.

**Anna McMorris:** They are not treated in the way they should be, but there is no system or support available for antisocial behaviour, yet if the amendment were agreed, there would be. As my hon. Friend the Member for Lewisham West and Penge just mentioned, the two things are not mutually exclusive.

Despite the fact that the behaviour is criminal—which is what Dame Vera Baird was referring to—it is not dealt with as criminal by the police. Instead, it is called antisocial behaviour. She said:

“I am particularly worried about people who are persecuted at home”,  
as I have illustrated. She continued:

“It is not about every bit of antisocial behaviour—if someone chucks a can into my garden, I do not expect to have victims code rights—but this Government legislated well to introduce...the community trigger about seven years ago. It says that when it escalates to a particular level, you have a series of remedies to get all the agencies together to put it right. If it gets to that level, then it is seriously persecuting, and there are people who are suffering that.”

Dame Vera illustrated her evidence with the example of a woman sitting in her garden, minding her own business, when some lads who are sitting outside drinking

[Anna McMorris]

beer throw a can into her garden. It is a relatively small incident—it is not particularly pleasant, but it is antisocial behaviour—but if she complains,

“they chuck something at her window. They stamp on her plants. They kick the ball against the gable end all the time. They shout abuse.”

They keep going and going, making the woman’s life a misery.

As Dame Vera said, often the person impacted is already vulnerable, and this intensifies that vulnerability and creates trauma. She continued:

“That is very worrying, but it is not treated as criminality; it is treated as antisocial behaviour. But if we look at it, stamping on the plants in her garden is criminal damage; chucking something at her, if it might hurt her, is an assault; much of this behaviour is likely to cause a breach of the peace, but it is never dealt with like that. Since the key to the Bill appears to be that you are a victim of criminal behaviour, the question is: who makes that decision?” I hope the Minister addresses that in his response to the amendment.

Dame Vera continued:

“If I go to Victim Support and say, ‘Please help me. This is happening at home,’ does the fact that it is obvious that part of it is an assault make me a victim or not? I think that is a key question to answer in the Bill...If someone pinches a spade from my garden, I am entitled to my victims code rights, but if someone behaves like that to an older person, they have nothing.”—*[Official Report, Victims and Prisoners Public Bill Committee, 20 June 2023; c. 27-28, Q62.]*

My constituent Sarah suffered a miscarriage due to the stress of being the victim of repeated antisocial behaviour on the part of her neighbour. Sarah should have been entitled to specialist support for what she went through, but she was not. She was not entitled to anything. Victims of antisocial behaviour are not second-class victims, second-class citizens or second-class anything, and they do not deserve to be treated as such.

The Anti-social Behaviour, Crime and Policing Act 2014 established a trigger of three reported incidents of antisocial behaviour over a six-month period, at which point the victim can seek a community resolution meeting of the responsible agencies to resolve what is by then persistent ASB. The Home Office’s guidance in support of the Act acknowledges

“the debilitating impact that persistent or repeated anti-social behaviour can have on its victims, and the cumulative impact if that behaviour persists over...time.”

It also explains that the community trigger is an important statutory safety net for victims of antisocial behaviour and that it helps to ensure that “victims’ voices are heard.”

The community trigger can be activated through notice to a local authority, a police and crime commissioner or the police when a victim or victims have reported antisocial behaviour incidents three or more times within a six-month period and no effective action has been taken. A councillor or Member of Parliament may also activate the trigger for a constituent, and I am sure that some hon. Members are supporting constituents in that way. The trigger is intended to be an opportunity for citizen empowerment—an important part of our democracy.

When the victims or victims have activated the trigger, all the agencies, such as the police, local authorities and housing associations, must come together to address the situation and fix the problem. However, despite the

intention that the trigger should be a solution to a complex problem, it has not delivered the intended results. A report by the Victims’ Commissioner for England and Wales found that awareness of the trigger remains low among the public and that even some of the relevant agencies are not using it. Including the community trigger threshold in the definition of a victim, as amendment 10 intends, would help to rectify that problem, as well as providing much-needed support to these usually very vulnerable victims.

Some police and crime commissioners offer support to antisocial behaviour victims through discretionary funds, because they cannot do so from Ministry of Justice victim funds, but that is pot luck: some police and crime commissioners do not. That means that whether support services are provided for victims of ASB depends on where they live, which creates a concern that some victims who are suffering significant stress from persistent ASB do not get the emotional and practical support that they need to cope and recover. Victims of persistent ASB whose suffering has entitled them to activate the community trigger must be recognised as victims of crime in their own right, with all that that entails.

What is even more bewildering about the Government’s stance is that the previous Justice Secretary, the right hon. Member for Esher and Walton (Dominic Raab), said on 4 December 2021, as reported exclusively in *The Times*, that the Bill would give antisocial behaviour victims new rights and protections. He committed to putting victims of antisocial behaviour “on a par” with victims of crime. The article quoted a Ministry of Justice source, who said:

“It’s about recognising there is never a ‘victimless’ crime.

It’s about making sure people who aren’t directly part of the criminal justice process, where crime has wider implications, that there is an opportunity for that wider impact to be articulated in the process.”

Is this a U-turn, or will the Government support the amendment and bring forward the support that victims of ASB so desperately need? Why are those victims suddenly deemed unworthy of protection? For so many people across the country, the toll of being made to feel unsafe in their own home is unbearable. My constituent John came to me in despair after being passed from pillar to post by different authorities. John’s wife is disabled, and their home had been targeted repeatedly by a group that congregated outside on most nights. John and his wife were bereft, overwhelmed by anxiety and stress, and felt unsafe in their own home.

Antisocial behaviour is a national issue. It should not be a party political issue. We see it across constituencies and in all neighbourhoods. The amendment would simply include the Government’s own guidance on such incidents in the Bill, so that people like Sarah, and John and his wife, are not treated as second-class victims. I hope that the Minister will reflect on that and support the amendment.

10 am

**Maria Eagle:** I rise to support my hon. Friend the Member for Cardiff North in pressing the case for amendment 10, or at least seeking an explanation about why antisocial behaviour is not included in the clause, given the undertakings made by the Minister’s predecessors. I admit that there have been a few of them, and catching



up can sometimes be a little difficult—institutional memory dissipates swiftly these days on the Government Benches.

I urge the Minister to take another look at this issue, because the essential point that has been made by Opposition Members is reflected in my constituency experience. Believe it or not, Sir Edward, it is 26 years since I was first elected, although it does not seem that long. Some of the most distressing constituency cases that I have ever had to deal with relate to antisocial behaviour, as it is somewhat underwhelmingly called.

When the former Victims' Commissioner gave evidence to the Committee, she was correct in noting that some of the individual bits of behaviour that make up what we call antisocial behaviour are indeed crimes. She made reference to criminal damage, assault and battery, which are very familiar. Perhaps an individual incident would not be enough to meet the threshold that most of our police forces use these days for deciding whether to proceed against individual perpetrators, but as a course of behaviour over time, such incidents certainly add up to very serious crime. Over the years, I have had many instances in my constituency where that has undoubtedly been the case.

As my hon. Friend the Member for Cardiff North set out using examples from her constituency, the impact on victims is very serious indeed. It is certainly more serious than what some victims, who would fall within the definition in other instances, have experienced. Many of the people who perpetrate antisocial behaviour against their neighbours are lawless in other ways, and they are often on the radar of the police for other reasons. If they are not, they are frequently on the radar of other agencies, and the only way to deal with some of these people is to get everybody together to problem solve.

My concern is twofold. First, leaving those who are subject to antisocial behaviour out of the definition of "victim" suggests a hierarchy. Victims are often told by police and other agencies, "Oh, it's below the threshold"; "We can't do anything about it"; "It's a civil matter"; or, "It's just a neighbour dispute." They are frequently told that, when it is nothing of the sort. If we leave victims of antisocial behaviour out of the definition of "victim" when so many others are included, it reinforces the idea that legislators are not taking seriously the consequences for victims of antisocial behaviour, as opposed to the consequences of other types of crime for which we are legislating to improve victims' rights.

**Janet Daby:** My right hon. Friend is making a great speech. If somebody is afraid, fearful or worried, or does not want to return home because of that, surely they are a victim and should be part of the victims code.

**Maria Eagle:** I very much agree. I have had constituents come to me who are in the most dreadful state as a consequence of repeated instances of antisocial behaviour, sometimes over many years. Sometimes it can take years until they come and see me, and I then have to say to them, "These are difficult issues to resolve. I'm going to try this, and I'm going to try that," but I cannot say to them, "I'm going to get all the agencies together and force them to do something." I have to expect to manage myself when they come to see me, because one knows from experience that it is just not possible to promise to solve these issues.

Perpetrators are canny, and one of the things they do is complain to the police first. For the citizen who has never broken the law and would never dream of inflicting this kind of behaviour on their neighbours, going to the police is a last resort, but for some perpetrators, going to the police is a first resort so they can induce the impression among the police that it is a dispute between neighbours.

**Tonia Antoniazzi (Gower) (Lab):** My right hon. Friend is making an excellent speech about the victim and the perpetrator's actions. We see at first hand that there is no thought about the effect of the antisocial behaviour on the victim, who may be a veteran and may have post-traumatic stress disorder, so working across agencies is vital in supporting our constituents.

**Maria Eagle:** Indeed, and that is what usually happens. One of the cases that springs to my mind involves a veteran—I will not use the gentleman's name—who for years has carried around a little rucksack with all the things he values in his life, including his service medals, so he can get away from the flat he lives in because he is worried about what the perpetrators might do. Although the issue has been going on for many years, I have not been able to deal with it to his or my satisfaction, even though some of the instances he has told me about have been quite awful. If he were to see that antisocial behaviour is not included in the Bill, and that it is seen as a lower level of crime—not even as crime—he would not be very impressed, quite frankly.

The right hon. and learned Member for North East Hertfordshire made the important point that the agencies are not doing their job, and I agree. It is like a hot potato: they say, "Oh, it is not for us," and they send it to the police, who send it to the council, and nobody problem-solves. Obviously, the job of MPs is to try to knock a few heads together and get some problem solving going on to resolve an individual matter. We all do that, and in some instances we are successful, but with antisocial behaviour it is very difficult. The signal we are sending by leaving antisocial behaviour out of the definition of "victim" is that it is somehow below a threshold. The Bill will not encourage the agencies to up their game if they do not see that kind of behaviour in the definition of "victim".

That is why I hope the Minister will have a think about the amendment. I know he will stand up and say, "Well, if it reaches the threshold of crime, it is included," because he said that in respect of the previous two amendments. Of course, that is technically correct, but in the real world, where agencies are starved of resource and always have to ask, "Which issue should we deal with as a priority?" because they cannot deal with all of them, sending the signal that antisocial behaviour is not as important as something that comes above a different threshold and counts as crime means that it will be left out and these problems will not be solved. Our many constituents who suffer from serious antisocial behaviour—which does amount to crime, but try getting the police to handle it in that way—will be left feeling that they are second-class victims yet again. I do not think that is the intention behind the Bill and of legislating to put the overarching principles of the victims code into law. If the Minister cannot do something, that would be a regrettable omission. I hope he will give us some good news and say that he will implement the commitments made by his predecessors.

**Siobhan Baillie** (Stroud) (Con): It is a pleasure to serve under your chairmanship, Sir Edward. I am interested to hear what the Minister says in response, and I hope he will take on board what hon. Members said about the changes since the previous Lord Chancellor, who was quite outspoken about these issues, was in post. It is important to investigate whether the real issue is the implementation of the existing legislation and guidance, or whether it is a lack of legislation, which we can fix here.

I have been sat here thinking about how slow and clunky this place is; it has taken so long to get to this Bill. I have had two children quicker than some Government projects have been completed. It takes forever. I have also been thinking about how creative antisocial behaviour has been getting recently, and about the TikTok videos showing youngsters storming into people's houses, often with gangs of people. That would be a one-off incident, so presumably it would not reach the threshold of the community trigger, but it leaves a victim in its wake. I also understand—please correct me if I am wrong, Minister—that trespass is not criminal if someone storms into a house but it is pre-arranged. That it is very scary, but we possibly would not reach the threshold for the victims code.

I want to know that the Department is thinking through the rise of social media, the way that TikTok is being used and how gangs of people try to harass and attack people. If this legislation is a way to address this social media stuff, which the public are pretty outraged by, we need to think that through. I want to hear that the Department has gone through case studies and interrogated to see whether a change of legislation is appropriate, or whether the Department is still satisfied that what is available would deal with this latest nonsense, because this will not stop. There will be new ways of getting at people. People called Wizzy or Mizzy or something like that will try to get their ridiculous little videos, but there are victims in the wake of those videos, so I am interested to hear the Minister's views.

**Sarah Champion:** I want to build on the points that have been made. I will start with those made by the right hon. and learned Member for North East Herefordshire—

**Sir Oliver Heald:** Hertfordshire.

**Sarah Champion:** I apologise—Google is not what it used to be.

**Sir Oliver Heald:** Google is not that broad.

**Sarah Champion:** We are off to a bad start now, aren't we?

Some levels of antisocial behaviour are a crime, so they would immediately fall within the proposals, but many victims of antisocial behaviour are not covered by the victims code, which means that they do not have access to the support and information found in it. In particular, that means that they do not have the right to be referred to support services and that PCCs face spending restrictions on victims funding for antisocial behaviour support services as a consequence. The cumulative nature of what would be seen as low-level annoyances literally drive people insane, get them to move house and have them in a constant state of anxiety. In amendment 10, it is clear where that threshold is. On

the points that my right hon. Friend the Member for Garston and Halewood made, that needs to be recognised in black and white so that the services, particularly the police, recognise the significance to people's lives of antisocial behaviour and view it as something that ought to be covered under the victims code.

I also say to the Minister that this issue was raised a lot on Second Reading and was highlighted by witnesses. As my hon. Friend the Member for Cardiff North said, the former Victims' Commissioner, Dame Vera Baird, called for this specific thing in an evidence session. To be specific, she emphasised the fact that

“this Government legislated well to introduce something called the community trigger”,

so that

“when it escalates to a particular level, you have a series of remedies to get all the agencies together to put it right.”—[*Official Report, Victims and Prisoners Public Bill Committee*, 20 June 2023; c. 27, Q62.]

If the antisocial behaviour gets to that level—amendment 10 seeks to address this—those affected must be classed as victims under the legislation. I really think that the amendment would ensure that victims of persistent antisocial behaviour would be entitled to the rights as they are set out in the victims code and, hopefully, the victims Act, so I support the amendment.

**Edward Argar:** I am grateful to the hon. Member for Cardiff North for her amendment and for providing us with the opportunity to debate this issue. I suspect that we will return to it again, but this is a useful opportunity that allows us to get into more detail than is perhaps possible on Second Reading.

The amendment would include victims of antisocial behaviour in the definition of “victim” if they have suffered harm as a direct result of the conduct. As the hon. Lady sets out in the amendment, it would use the definitions in the Anti-social Behaviour, Crime and Policing Act 2014 and would therefore cover

“conduct that has caused, or is likely to cause, harassment, alarm or distress to any person...conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or... conduct capable of causing housing-related nuisance or annoyance to any person.”

Therefore, that would also include non-criminal antisocial behaviour.

The Government agree with the hon. Lady that antisocial behaviour is a blight on our communities, and the impact on individuals cannot be overestimated. It is a national issue and it has a huge impact. Every Member of the House and of the Committee has probably dealt with casework on behalf of constituents relating to antisocial behaviour. As Dame Vera kindly acknowledged, that is why the Government took action on the community trigger, which helped to address the line between what is criminal conduct and what falls short of it.

10.15 am

Right hon. and hon. Members have made a number of points. On the issue that the hon. Member for Lewisham East raised about victims of crime, when a criminal offence has been committed—whether or not it is charged and whether the police recognise it as such—that person is a victim of crime; it is a criminal offence. So the vast majority of things, as Dame Vera acknowledged, are covered as criminal offences in this space. As she said:

“Despite the fact that the behaviour is often criminal, it is not dealt with as criminal by the police, but is instead called antisocial behaviour.”

The fact that it is criminal behaviour means that those who are victims of it would be encompassed by the legislation as currently drafted. She continued—this was her key point—by asking:

“Who decides what is criminal behaviour?”—[*Official Report, Victims and Prisoners Public Bill Committee, 20 June 2023; c. 27-28, Q62.*]

**Sarah Champion:** I might have cut the Minister off too soon—he might be about to answer my question—but this is about the persistent level of low-grade behaviour, which would not reach the criminal threshold. It is like a dripping tap or a mosquito buzzing in the room; that is what really drives people into frustration.

**Edward Argar:** I was about to come to that point, so the hon. Lady’s intervention is prescient.

All of the speeches that we have heard have acknowledged that the behaviour that is being referred to is often criminal, even the low-level behaviour. The shadow Minister, the hon. Member for Cardiff North said that if something is thrown in the direction of an individual or if plants are trampled, that would be criminal behaviour. It may not be charged as such, but it would still entitle people to those rights under the code.

Dame Vera’s key point was about who decides what criminal behaviour is, how we ensure that people know that those rights are available to them and that the service providers acknowledge that those individuals are entitled to those rights. The behaviour we have heard about is included, but we do not believe that including it in the Bill in this way is the right approach to address the issue, to raise that awareness and to ensure that people can access the rights that are already there. However, I will turn to that in just a second. The right hon. Member for Garston and Halewood again managed to pre-empt an element of what she thought I would say in my speech, and she is not inaccurate in her presumption.

A point was raised about the previous Lord Chancellor, my right hon. Friend the Member for Esher and Walton. My only reflection on that is that, first of all, in my recollection—the right hon. Lady is right that this is going back a while—the articles cited an unnamed source and Government sources. We on both sides of the House have experience of how that can work. That is not official policy, but I will mention, on official policy, that that Lord Chancellor confirmed the content of the draft Bill and the full Bill, so it is not accurate to suggest a U-turn. It was the same Lord Chancellor who confirmed what we are debating today as what he wished to see in legislation.

My hon. Friend the Member for Stroud raised a number of points. We do not believe that a lack of legislation is the challenge here. We believe that there are key aspects, which the hon. Member for Cardiff North rightly highlighted, about raising awareness and the different public authorities and bodies engaging in a concerted manner to tackle the problem—treating it seriously and suchlike—but we do not believe that putting something in the Bill is the right way to raise awareness and to change those behaviours.

My hon. Friend raised some particularly distressing cases that have recently been on social media. I tread warily because I am not a lawyer—I am looking at one

or two of the lawyers across the room—but she is right to say that trespass is a civil offence. I want to be careful, because I do not know the details of each of those incidents, but it is quite possible that a number of those incidents reported on social media may well have encompassed elements that were criminal in what was done. However, as a non-lawyer, I am cautious about saying that with any certainty, without knowing the details of the cases. Again, in those cases where there was an element of criminality, those individuals would be encompassed under the provisions for support under the victims code and in the legislation.

As Dame Vera alluded to, a significant number of individuals who have been harmed by antisocial behaviour are already defined as victims under the Bill. The definition as drafted covers a huge range of antisocial behaviour: where the behaviour itself is a criminal offence, such as criminal damage; where the behaviours, when taken together, constitute a criminal offence, such as harassment; or where a civil order has been breached, thereby incurring criminal penalties. In essence, where the antisocial behaviour amounts to criminal conduct, victims harmed by that behaviour can already benefit from measures in the Bill.

**Jess Phillips** (Birmingham, Yardley) (Lab): I was going to intervene on the Minister earlier, when he kept saying that we should not put this in the Bill, to ask, “Why?” If it is already included, why not write the words down?

**Edward Argar:** First, we do not need to do this in the Bill—the points that the hon. Lady makes are essentially two sides of the same coin. I will turn to this in more detail, but we are seeking to be permissive in the breadth of the definition, rather than prescriptive by naming individual groups. Again, that risks causing the effect that she does not want: if we name A, B and C, does that create a hierarchy, and if we miss out D—as this place occasionally does—are we suddenly excluding something unintentionally? We have sought, by criminal conduct and victims of crime, to include as broad a definition as possible. A vast majority of individuals who are sadly victims of antisocial behaviour will be effectively victims of a crime.

The challenge, which I am happy to work with Members on both sides of the House on, is how we can ensure that we address Dame Vera’s key point—in my view, we would not do this on the face of the Bill—which is who decides and how we empower individuals to say, “Police may not have proceeded with it, but I know this is a criminal offence, so I wish to access these services and have a right to do so.” We need to address that key point. I am not sure if that is best done through legislation, but I am happy to work across the House to address that issue.

**Anna McMorrin:** The amendment seeks to include a clear community trigger that will set off victim support. That is very clear in the amendment, and it will allow those agencies, organisations and authorities to work together in support of people who are victims of repeated, consistent and persistent antisocial behaviour.

**Edward Argar:** I am grateful to the hon. Lady and I will address that point in my remaining remarks—I will give way again if she feels that I have not done so. In terms of those who suffer from persistent antisocial behaviour that does not amount to criminal conduct,

[*Edward Argar*]

we disagree that putting this in the Bill, rather than seeking other means to achieve an outcome for them, is the best approach. As I set out in my remarks on the previous group of amendments, we have deliberately defined victims in part 1 of the Bill to cover victims of crime. The measures have been designed to ensure that all the criminal justice agencies work together to engage and support those who are victims of crime. We also seek to strengthen the victims code.

A whole range of behaviours are included, and every speech has mentioned behaviours that contained elements of a crime that would therefore enable those individuals to get support. There are different agencies and procedures, as the hon. Member for Cardiff North said, for cases of antisocial behaviour that do not meet the criminal threshold or where there is no specific criminal offence involved. That means, for example, that victims of persistent antisocial behaviour can make a request for an antisocial behaviour review to any of the main agencies responsible, such as the council, police and housing providers.

That does not mean that individuals who have suffered as a result of harmful but not criminal antisocial behaviour are prevented from seeking support. Outside the Bill and the victims code, they can still access support services in their local area. Police and crime commissioners, as well as local authorities, can and do commission support for victims of all types of antisocial behaviour, and can help victims of all kinds of ASB, both criminal and non-criminal, to resolve their issues. Some of the funding they receive is rightly ringfenced for particular criteria and causes, but they do have a degree of overall discretion in their budget as to whether they wish to fund such services.

**Anna McMorris:** As I set out in my speech, the police and crime commissioners decide in each area. If someone is a victim of antisocial behaviour, they are not guaranteed any support. Victims of persistent antisocial behaviour have no idea where to turn to access support because the authorities pass them from pillar to post. What the Minister is setting out does not happen; the amendment would ensure that it did.

**Edward Argar:** I am afraid I disagree with the shadow Minister's last point. I do not think the amendment would address the operational or on-the-ground implementation issues that she highlights.

On the initial point the shadow Minister made, we have often debated in the House how to strike an appropriate balance in support services for victims of all crimes and of particular types of crime—how to ensure a tailored local support service that reflects the local community, while also ensuring a baseline of services, and a national response when a local community may not commission a particular service because the police and crime commissioner may have to make prioritisation decisions and the number of people likely to use that service in their locality may not be sufficient that they can afford to fund it. We always have this debate about the appropriate line between a national, consistent service, and local tailoring and local empowerment to police and crime commissioners, who are of course directly elected and accountable to their communities for the services they provide—notwithstanding turnout, as I think the shadow Minister indicated.

**Sir Oliver Heald:** Dame Vera was making the point that these matters are not being taken seriously enough, but there is an offence of harassment. That is repeated behaviour, and it can be antisocial behaviour or bullying. That was treated as a serious matter by Parliament—it is a summary offence—and there is also the more serious offence if fear of violence is involved, which has a maximum sentence of 10 years' imprisonment. Is it perhaps time for the Minister to discuss with the Attorney General and the Home Office whether there is a need for more impetus to be put behind that provision, whether through guidelines or the prosecution college hub?

**Edward Argar:** I am grateful to my right hon. and learned Friend for his intervention. We are discussing these issues more broadly not only with the Attorney General but with the Home Secretary, given the cut-across and the importance that is rightly attached to these issues by those who send us to this place and by Members on both sides of the House. I reassure my right hon. and learned Friend that we are looking cross-Government at how we can make such responses more effective.

More broadly, the Government are taking clear action to crack down on antisocial behaviour and to build confidence that it will be taken seriously and, where appropriate, punished. Backed by £160 million of funding, our antisocial behaviour action plan, published in March this year, will give police and crime commissioners, local authorities and other agencies more tools to tackle the blight of antisocial behaviour across communities in England and Wales. That includes increasing policing in hotspot areas and a new immediate justice programme to make sure that offenders are made to undertake practical, reparative activity to make good the loss or damage sustained by victims, or to visibly support the local community in other ways, such as by litter picking. If things go wrong, the antisocial behaviour case review is there to ensure that those affected can seek a solution from the appropriate agency.

The Government will continue to take action for those who suffer as a result of persistent antisocial behaviour. The vast majority of examples given in evidence sessions and in today's debates have, however, contained elements that would constitute criminal behaviour, which would therefore mean that the individuals were included in the rights under the victims code and the details that we are discussing in the context of the Bill.

We have sought to be less prescriptive and more permissive to make sure that we do not inadvertently tighten the definition too much. We do not share the view of the shadow Minister that adopting the amendment is the right way to address the point, but we do accept the points that Dame Vera and others made. There are two questions or challenges, which are not, in my view, best dealt with by legislation, but which do need to be addressed. First, who decides what is criminal? Secondly, how do we raise the awareness of authorities and individuals, so that people know their rights and that what has happened constitutes criminal behaviour, even if it is not prosecuted and even if there is no conviction? Therefore, those entitlements and rights are there.

10.30 am

**Maria Eagle:** That is one of the most important points. The victims are told that the police cannot do anything about it because it does not reach certain thresholds. When people understand that they may

have rights that relate to being victims of crime, first, they will not have thought that they do—unless someone tells them—and secondly, they will ask the question, “If that is the case, how come the police aren’t doing something about the crime?” That is the conundrum. The Minister’s solution to the issue—not accepting the amendment—does not deal with it.

**Edward Argar:** The right hon. Lady makes two points. I suspect that in a number of cases the police will look at an offence and say, “We don’t think it meets the threshold for prosecution,” but that dextrous lawyers—we have some in Committee—could probably find a way to have it constitute a criminal offence and be prosecuted. Decisions on prosecutions, however, are made by the independent Crown Prosecution Service, based on the evidential threshold, the public interest and whether there is likely to be a conviction. I will not intervene or interfere in the CPS’s prosecution decisions.

Nevertheless, I am happy to work across the House to find a way to increase awareness. I do not believe that legislation and the amendment are the right approach, but there must be ways to increase awareness among victims that they are victims and among criminal justice agencies and others, so that they understand that, where a criminal offence has taken place, even if it is not prosecuted, individuals should be entitled to support.

**Anna McMorrin:** I thank the Minister for his response and everyone who has contributed to this important debate. I know that the number of people across the country who suffer from persistent antisocial behaviour—whether that is extreme or slight but persistent incidents which, as I illustrated in my speech, cause people to be locked in their homes and afraid to venture out to the shops, scared even to walk outside their front door—is hugely underestimated. This is a serious issue that must be addressed in the Bill. The amendment would do just that.

My right hon. Friend the Member for Garston and Halewood made excellent points about how the perpetrators of antisocial behaviour jump the gun. Many of them know the system and will make a report to the police in extreme circumstances and where the incidents are criminal, so the police are left not knowing whose side to be on, thinking it is a neighbourhood dispute or something that can be resolved. I, too, have tried to support such victims of antisocial behaviour in my constituency, and it is very difficult to get the agencies and authorities to understand that those people are victims. Including the amendment in the Bill will ensure that they are seen as victims and will have access to services that support them.

The hon. Member for Stroud made an important point about trespassing and storming into houses, which has seen a worrying rise among young people on social media such as TikTok. I know the Minister responded to that in his speech, but it would be good if he could look at the issue again. He said he was not able to address it here and now, but perhaps he could look into it and come back to the Committee—or write to us—on what the Department, the Government and he will be doing to address it.

All that goes back to the main point, the community trigger. With it, we need to ensure that services, the authorities and the criminal justice agencies work together to support the victim. That is what the amendment is

intended to do. My hon. Friend the Member for Rotherham made the good point that the authorities need to know where they can step in, which they do not currently know. It should not be in every case for the victim to have to go to their MP, and for the MP to step in to bring the authorities together, as my hon. Friend stated. That is an impossibility for everybody out there. The Minister made the point that people can access lawyers; who in our communities has that knowledge and awareness, especially when they face that trauma? They may be vulnerable and may not have access to the finances to get legal advice.

**Edward Argar:** I fear the shadow Minister misunderstood what I was saying; I was referring to police and CPS lawyers, who will be able to find ways to prosecute some of these cases, I would hope—not to individuals.

**Anna McMorrin:** I thank the Minister, but the police and the criminal justice agencies just do not do that. They are stripped of resources. They do not have the ability to look into each case. If the community trigger is reached, support can kick in. Then at least those victims of antisocial behaviour know that they have something to lean on and some way of accessing support. That is why the amendment has been tabled, why I moved it today and why I spoke to it on Second Reading. It is particularly poignant that it will be Anti-Social Behaviour Awareness Week in just a couple of weeks. This is a really good opportunity for the Government to support the amendment, which is why I will press it to a vote.

*Question put, That the amendment be made.*

*The Committee divided: Ayes 7, Noes 8.*

#### Division No. 1]

#### AYES

Antoniazzi, Tonia	McMorrin, Anna
Champion, Sarah	Phillips, Jess
Daby, Janet	Reeves, Ellie
Eagle, rh Maria	

#### NOES

Argar, rh Edward	Colburn, Elliot
Baillie, Siobhan	Heald, rh Sir Oliver
Bell, Aaron	Jones, Fay
Butler, Rob	Nici, Lia

*Question accordingly negated.*

**Anna McMorrin:** I beg to move amendment 17, in clause 1, page 1, line 16, at end insert—

“(e) where the person has experienced child criminal exploitation;”.

*This amendment would include victims of child criminal exploitation in the definition of a victim.*

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

Amendment 51, in clause 1, page 1, line 16, at end insert—

“(e) where the person has experienced adult sexual exploitation.”

Amendment 18, in clause 1, page 2, line 6, at end insert—

“(c) ‘child criminal exploitation’ means conduct by which a person manipulates, deceives, coerces or controls a person under 18 to undertake activity which constitutes a criminal offence;”.

*This amendment provides a definition for the term “child criminal exploitation”.*

Amendment 52, in clause 1, page 2, line 6, at end insert—

“(c) ‘adult sexual exploitation’ means conduct by which a person manipulates, deceives, coerces or controls another person to undertake sexual activity.”

*This amendment would provide for a statutory definition of adult sexual exploitation.*

**Anna McMorris:** The Minister should not be surprised that we are debating child criminal exploitation once more; my hon. Friend the Member for Rotherham tabled a similar amendment to the Police, Crime, Sentencing and Courts Act 2022 just two years ago. Unfortunately, but unsurprisingly, the Government voted against that amendment, so two years on we still do not have a definition of child criminal exploitation in statute. Barnardo’s and the Children’s Society define child criminal exploitation as when

“another person or persons manipulate, deceive, coerce or control the person to undertake activity which constitutes a criminal offence where the person is under the age of 18.”

That is the definition that we would like to see on statute.

Child criminal exploitation takes a variety of forms, but ultimately it is the grooming and exploitation of children into criminal activity. The current reality is that, across each form that child criminal exploitation takes, children who are coerced into criminal activity are often treated as perpetrators by statutory agencies, rather than as victims of exploitation. That is partly because safeguarding partners work to different understandings of what constitutes criminal exploitation.

Recently, child criminal exploitation has become strongly associated with one specific model—county lines—but it can also include children being forced to work in cannabis factories, being coerced into moving drugs and money across the country, or being forced to commit financial fraud, to shoplift or to pickpocket. The lack of shared understanding of what child criminal exploitation is and the guises it can take means that the questions are not consistently asked when children are identified as being associated with criminal activity, either at the time of arrest or during court cases in which the possible coercion of a child has taken place.

**Ellie Reeves:** Throughout the country, children are being used by criminal gangs to do their bidding, and they are often subjected to the most sophisticated coercion, intimidation, duress, abuse and, sometimes, sexual abuse, so does my hon. Friend agree that it is indefensible not to have them listed as victims in the Bill?

**Anna McMorris:** I absolutely agree with my hon. Friend. It is completely indefensible not to have the definition of child criminal exploitation in the Bill to make sure that, as she says, such children are seen as victims, not perpetrators.

The lack of shared understanding that I mentioned also means that children are often arrested for crimes that they are forced to commit, whereas the adults who

exploit them are often not investigated or brought to justice, leaving them free to exploit other children, which happens. All this is because of the absence of a statutory definition of child criminal exploitation, the true scale of which is completely unknown. We know that it is happening all over the place—it is off the scale, essentially—but many children who are exploited or groomed fall through the cracks of statutory support so are not identified in official statistics.

In England in 2021-22, there were more than 16,000 instances of local authorities identifying child sexual exploitation as a factor at the end of an assessment by social workers; 11,600 instances of gangs being a factor; and 10,140 instances of child criminal exploitation being a factor. It has been estimated that in England alone there could be as many as 200,000 children aged 11 to 17 who are vulnerable to serious violence because of the levels of crime or income deprivation in their community.

Research carried out by Dame Rachel de Souza, the Children’s Commissioner for England, found that 27,000 children who were at high risk of gang exploitation had not been identified by services and as a result were missing out on vital support to keep them safe. The research also found an even higher number of children who were experiencing broader risk factors linked to exploitation, with one in 15 teenagers—or 120,00 young people—falling through the gaps in education and social care. These are children who are being excluded from school, who are persistently absent or who go missing from care, and many face a combination of factors that leave them vulnerable to exploitation.

In the evidence sessions last week, Dame Rachel de Souza spoke about the importance of including a statutory definition of child criminal exploitation in the Bill. When asked whether it should be in the Bill, she said “absolutely”, and that she had wanted to bring it up herself. She said:

“When I go around the country and talk to children, wherever they are—whether that is being held in police cells or children who are involved in drugs or whatever—I realise just how complex the situations are. You realise that these children are as much victim as perpetrator. Children tell me all the time that their experiences with the police make them feel like they are not victims but criminals. That is what we need to sort out.”—[*Official Report, Victims and Prisoners Public Bill Committee, 20 June 2023; c. 24, Q50.*]

10.45 am

Organisations such as the NSPCC, the Children’s Society and Barnardo’s have done a brilliant job in campaigning for statutory services to recognise that those children have not made a choice to get involved in criminal activity, as perpetrators of exploitation want them to believe. They have been groomed and coerced in the same way as children groomed for sexual exploitation, and they should be treated as victims.

Practitioners at the Children’s Society found that the typical age of children being criminally exploited is 14 to 17, although there are victims as young as seven. That form of exploitation occurs most frequently among boys, but there is increasing evidence that girls are also being groomed to commit criminal offences. That is also being unreported by statutory agencies and services. One practitioner disturbingly reported that some of the girls they work with see criminal exploitation as their only way out of being sexually exploited. Is this really

the country we want to live in? Do we not want to deal with that in this Bill? It is hard to imagine what those young girls face in their day-to-day lives.

I visited the St Giles Trust—I saw its centre in Cardiff, but it does a fantastic job across the country. It does great work in supporting vulnerable children who have been exploited and abused and are caught up in crime. For many of those children, not being exploited is not an option. Perpetrators exploiting children criminally—for example, through the county lines model of criminal exploitation—can be prosecuted under the Modern Slavery Act 2015 for slavery, servitude, and forced and compulsory labour offences and trafficking for the purposes of exploitation.

Although many perpetrators exploiting children for criminal purposes will be arrested and charged for stand-alone offences, such as supplying a class A substance, they are not held accountable for the harm and damage they have caused those children's lives. It is abundantly clear that there is a disparity between the number of children being criminally exploited and the number of perpetrators of criminal exploitation being charged under the Modern Slavery Act.

**Jess Phillips:** I think that, last year, four people were charged with child trafficking, and one person was convicted. I believe that last year also saw the highest rate of young boys being trafficked into the system and being recorded in the national referral mechanism. Although the number of victims has gone up over the past 10 years, the number of trafficking convictions has gone down.

**Anna McMorris:** I thank my hon. Friend for absolutely illustrating the point.

I want to raise a real case of child exploitation. A 15-year-old boy, whom I will call Robbie—not his real name—was picked up with class A drugs in a trap house raid by the police. He was driven back home by police officers, who questioned him alone in the car and used that information to submit an entry to the national referral mechanism, which did not highlight his vulnerability but instead read like a crime report. Robbie subsequently went to court. His national referral mechanism failed, and his barrister, who did not understand the NRM process, advised him to plead guilty, which he did.

**Janet Daby:** My hon. Friend is making an excellent speech and speaking up for the rights of children. I am sure we all have cases where we know a child has been exploited and is vulnerable—by definition, a child is a vulnerable person. If a child is criminally exploited, it means that their vulnerability is increased. Does my hon. Friend agree that it makes no sense for them not to be included in the victims code?

**Anna McMorris:** That is an excellent point. My hon. Friend has absolutely reinforced the point that such children must be included in the Bill as victims.

I move on to talk about Robbie's experience—as I said, that is not his real name. In June 2019, he was referred to the Children's Society's disrupting exploitation programme. The programme helped Robbie challenge the national referral mechanism decision, and those supporting him attended court sessions with him to ensure that his vulnerability was outlined and that he

was recognised as a victim, instead of an offender. That enabled him to retract his guilty plea and access vital support. However, that was just one case. He was lucky: he had the Children's Society programme there to support him. We know that does not happen for the majority of child victims.

**Jess Phillips:** Is my hon. Friend aware that had Robbie arrived on a small boat and been trafficked out of a hotel and into a cannabis factory at the age of 10—Channel 4 has found such a case—he would not be entitled to any support from the NRM under the proposals of the Illegal Migration Bill, even though he would be a 10-year-old child who had been groomed into drug dealing?

**Anna McMorris:** Absolutely. That illustrates yet more child criminal exploitation. The whole thing is just horrific and absurd, which is why this issue needs to be addressed.

Back to Robbie. As the drugs that he had been selling were confiscated by the police when he was picked up in the raid, there was debt bondage in Robbie's case, as he now owed the groomer money for the drugs that had been lost. In turn, that resulted in threats to him and his family. The programme then worked with the police to complete intelligence forms and make sure that Robbie's safety was paramount. It put markers on the home and made sure that the police were aware of the situation, so that they could respond quickly if anything happened. The programme supported Robbie to continue his education.

Amendments 17 and 18 are absolutely vital to make sure that we take the necessary steps to protect vulnerable children and to focus agencies' attention on the adults who exploit them and are linked to the much, much more serious crimes that are taking place. Protecting children and bringing true criminals to justice—I do not see how anyone, least of all the Government, can object to such a notion. I will push the amendments to a vote later, but I hope the Minister will seek to include them in the Bill.

**Sarah Champion:** I start by apologising to the Committee. For each month that the Bill was delayed, I tabled another amendment, so I have quite a few today.

I will speak to amendments 51 and 52, which stand in my name, and then to those tabled by my hon. Friend the Member for Cardiff North. My amendments seek to provide a definition of adult sexual exploitation and are informed by my experiences of child sexual exploitation. I hope to make the argument that one very often blurs into the other, and the same arguments stand for both.

In 2009, the Department for Children, Schools and Families introduced a statutory definition of child sexual exploitation for the first time. I can honestly say that it has been transformational in ensuring that child abuse and exploitation are understood and that children receive the necessary support. We now need to accept in this Committee that adults can also be sexually exploited.

The STAGE group is supported by the National Lottery community fund and my hon. Friend the Member for Birmingham, Yardley. It is a fantastic group that highlights the nature and extent of the sexual exploitation of adult women across our communities and seeks to change legislation to give them better support. STAGE

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brings together a number of charities to provide trauma-informed support for women who have been groomed for sexual exploitation across the north-east and Yorkshire—including, in my constituency, the amazing organisation GROW, which I say to the Minister is severely underfunded at the moment.

Adult sexual exploitation is a specific form of sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a person aged 18 or over into sexual activity, usually in exchange for something that the victim needs or wants—often drugs, alcohol or indeed love. It is also usually for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears to be consensual. It can happen online as well, of course. The victims cannot give informed consent if they see no reasonable alternative to engaging in the activity, or if they have a reasonable belief that non-engagement would result in negative consequences for themselves or others.

Adult sexual exploitation does not always involve physical contact; it can also occur through the use of technology. My amendment 52 reflects the wording used in the statutory definition of child sexual exploitation, which the Government already use. The Government need to accept that not just children are exploited: many women—it is usually women—are exploited as adults, too. They are victims and deserve support, and that begins with ensuring that their abuse is recognised through a statutory definition of this form of sexual abuse.

One case study from the STAGE group is N, whom I will keep anonymous. N is a 22-year-old first-generation British Pakistani woman, who grew up in Leeds in a devout Muslim household. From a young age, N began experiencing sexual abuse from a male in her extended family. N began to spend more and more time outside of the family home; she could not talk to her family about the abuse because she did not want to be seen to bring shame into the household. During her time spent out of the house, N was introduced to a “friend”, whom I will call H.

H began to groom N, supplying her with drugs and alcohol to the point where she developed a dependency. He used her fear about shame as a form of control—to ensure that she did not speak out about the abuse he would subject her to. N was 15 at the time. Between the ages of 15 and 18, N was seen as a victim of child sexual exploitation. She was trafficked around Yorkshire by H, being picked up in taxis and taken to properties to be raped repeatedly. Professionals did all they could to safeguard N, but the abuse continued. N experienced a breakdown in her mental health due to the repeated trauma that she was experiencing, and she began drinking heavily on a daily basis.

When she was 18, the exploitation continued on a weekly, sometimes daily, basis. However, since she moved into adult services, the police and adult social care brought into question whether N was making “unwise choices” in respect of whether she was getting something out of these exchanges. So N was seen as a victim of child exploitation while she was 17—364 days—but the following day, when she turned 18, this victim of adult sexual exploitation was making “unwise choices”.

A lot of work from STAGE partner Basis Yorkshire was put in place, including advocating for N—although she was not a child any more, by law she was experiencing sexual exploitation. Over the past few years STAGE has lobbied health, police and social care services to ensure that N is recognised as a victim of grooming and exploitation. Although she might seem to “choose” to get into a taxi or to meet H or one of his associates, that is in fact a result of the coercion and control that takes place in grooming and exploitation. In legislation we recognise coercive control.

11 am

In March this year, N had an episode in which she went missing. When she was located following a sexual assault, the responding police officer informed STAGE that it could not be sexual exploitation because N was over 18. The lack of a legal definition of adult sexual exploitation has allowed N’s abuse to continue and has led to a lack of professional curiosity among key safeguarding services. I say to the Minister—I know he is aware of this—that N’s case is replicated across the country. Many women in other situations do not themselves recognise that they have experienced sexual exploitation, in part due to the fact that there is no statutory definition of adult sexual exploitation.

**Jess Phillips:** I should declare that I am chair of the STAGE group. Is my hon. Friend concerned, as I am, at the disparity when it comes to women who are British citizens? When sexual exploitation is considered as part of human trafficking, a foreign national is far, far more likely to be considered a victim than a British person. In many regards, British victims of sexual exploitation—adults and children—get lesser services.

**Sarah Champion:** Sadly, I am concerned and I absolutely agree. That is partly why we need a definition. The national referral mechanism was mentioned. By moving a person from one side of the street to the other they are trafficked, so they could fall under the national referral mechanism for modern slavery or just be prosecuted. But without a definition, services are not taking a joined-up approach and using the resources already in place.

The same arguments about choice and risky lifestyles in relation to adult victims of sexual exploitation were used in Rotherham. Having a definition would mean police forces being trained in what the definition means. Legal arguments would be put forward, and judges would receive training so that when they saw a young person in front of them they would understand that their behaviour was a symptom of being sexually exploited. There is a domino effect once a legal definition is in place. That is what happened with child sexual exploitation, so I hope that that will happen with adult sexual exploitation. I will come on to child criminal exploitation, but I have said to the Minister what needs to happen with adult sexual exploitation.

Manipulation by perpetrators, cultural expectations and family and community dynamics make it difficult for women to identify that they have experienced abuse. But sadly, sexual exploitation, as I have said, is not widely understood by professionals. It is vital that the Ministry of Justice use the Bill as an ideal opportunity to create a statutory definition of adult sexual exploitation to ensure a consistent understanding and recognition of the ways that sexual exploitation continues and presents itself in adulthood.



Amendments 51 and 52 would be a huge step in the right direction by recognising people who have experienced adult sexual exploitation as victims and entitling them to the crucial support available under the Bill. That must also come, of course, with support and funding for training to be given to police and justice staff to identify the signs of sexual exploitation.

I will now speak in support of amendments 17 and 18, which are about the definition of child criminal exploitation. The amendments would place a statutory definition of criminal child exploitation in law for the first time by ensuring that children who are being exploited are classed as victims under the Bill. Child criminal exploitation is the grooming and exploitation of children into criminal activity. There is a strong association with county lines, but it can also involve moving drugs, financial fraud and shoplifting on demand. That our laws catch up with our reality and realise the harm and damage that those criminals are causing children is long overdue. The true scale remains unknown, as many children fall through the cracks, but we have some evidence that indicates the scale of the abuse.

The former Children's Commissioner estimated that 27,000 children are at high risk of gang exploitation. During 2020, 2,544 children were referred to the national referral mechanism due to concerns about child criminal exploitation, and 205 of those cases involved concerns about both criminal and sexual exploitation. The pandemic has only made the situation worse. Children in Need reported that during the pandemic children faced an increased risk of online grooming or exploitation due to time online, not being at school or college, and increased exposure to harmful online content such as inappropriately sexualised or hyper-violent content.

In the evidence sessions last week, the current Children's Commissioner fully supported introducing a statutory definition of child criminal exploitation. She explained that the situations facing the children affected are very complex and that police make many feel like criminals rather than victims, as my Front-Bench colleague, my hon. Friend the Member for Cardiff North, highlighted.

It is clear that thousands of children are being criminally exploited every day and the response for those children must be immediate and properly resourced. Experts believe that a lack of understanding of child criminal exploitation prohibits an effective and joined-up response. The lack of a single definition means that local agencies respond differently to this form of exploitation across the country. The Children's Society data shows that a third of local authorities had a policy in place to respond. That means that two thirds do not. Given the nature of this exploitation, a national shared understanding is imperative. That is what a definition would provide.

Let me for one moment contrast the situation with that of the response to child sexual exploitation, which I spoke to on a previous group of amendments. Police officers across the country say to me that, because the police and politicians understand CSE, the police get resources specifically to address CSE. That is great and I support that provision, but it takes away from the resources we need for CCE. They are treated as two separate issues, even though the same gangs often promote both forms of exploitation. They are using these children for criminal exploitation, whether that be sexual, drug running or shoplifting. Accepting the definition would mean that we see criminal exploitation of children and

sexual exploitation of children just as "exploitation of children" and we can pool the resources and expertise to try to prevent this crime.

Many children who are criminally exploited receive punitive criminal justice responses, rather than being seen as victims. Again, I take colleagues back; that is what happened 25 or 15 years ago with child sexual exploitation victims.

**Rob Butler (Aylesbury) (Con):** The hon. Lady is making some incredibly powerful points and I have sympathy with a lot of them, but on several occasions, she has mentioned circumstances that would constitute criminal conduct. For example, she talked about victim N, who was raped. Rape is clearly criminal conduct. Does she accept that children in that situation would be covered by the provisions in the Bill?

Secondly, she is making a point about how young offenders are dealt with. I am a former youth magistrate and member of the Youth Justice Board. Does she accept that the judiciary dealing with young people are now trained and encouraged to find out whether the defendants in front of them have been subject to this kind of exploitation, and that that is therefore considered in the way that they are dealt with?

**Sarah Champion:** I will deal with those points in reverse order. My first reaction is to question why they were in front of a magistrate in the first place. How have those children gone all the way through the system to be in front of a magistrate, rather than it having been recognised at a very early point that there is something going on with the child? Why is a 15-year-old repeatedly running drugs across county lines? What is happening? What is behind that? The professional curiosity is not there.

That leads me to the hon. Gentleman's opening point. Of course, raping a child or raping an adult is a crime. We all recognise that. First, there are very low levels of reporting, and—as I hope I made clear with the adult sexual exploitation argument—a lot of people do not recognise it. They just think, "I'm a drug addict. He's my dealer. I have to do this in order to get my drugs."

First there is the reporting situation, and secondly there is recognition. In the case of N, she was seen as putting herself in a risky situation, so she would not be seen as a credible witness. We are not seeing the overall picture and the patterns of behaviour—the fact that the same children might be in the same location day after day—and then going back upstream to see what the motivator is and who is controlling the situation. I hope that having the definition of both terms will enable the police forces, the judicial services and the support services to see the broader picture and place the victim in that broader context. That is where I am coming from with both amendments.

**Rob Butler:** The hon. Lady posed a direct question to me. In terms of those young people coming before the youth courts, will she acknowledge that there is now a far greater use of diversion at the very early stage by the police and youth offending services, which means in fact that far fewer young people are coming to court? I was directly addressing the situation she raised about what happens when they are in front of that judicial process. In fact, there has been a huge amount of

[Rob Butler]

progress in trying not to bring children in front of magistrates or judges if it can possibly be avoided. Does the hon. Lady accept that there will be occasions when the level of offending is so great that society rightly demands that those people must face justice, at which point judges and magistrates can consider all the factors in determining what action to take?

**Sarah Champion:** I fully accept the hon. Gentleman's points. There was no criticism implied, but I will give one example. In 2013 I worked with Barnardo's, and we did an inquiry to see whether the justice system was fit for purpose for child sexual exploitation cases. Something that we found, which I alluded to, was that when a victim was in front of a judge as a witness, they were often seen as chaotic, aggressive and unreliable. We identified that if the judges had training on what a victim of child sexual exploitation presented like or as, it would make a difference. Indeed, it has made a dramatic difference now that that training has been rolled out.

If we got the definition of child criminal exploitation, a judge would automatically get training on the identifiers, so one would hope that the outcome would be more informed on the basis of having understanding of the young person in front of them, rather than just looking at the crimes. That is not to say that there will not be young people who are bad 'uns, who will use this and exploit what they see as a "get out of jail free" pass—I fully accept that could happen—but if the judge has a proper understanding of criminal exploitation, one would hope that they would then be able to challenge that a little more from an informed position and make the right decision for the young individual in front of them.

I have now covered quite a lot of my points—happy days! Another thing that really frustrates me is that many children who experience child criminal exploitation come to the attention of services once they are arrested for crimes. Again, if we had the definition in place and the awareness in the services, one would hope that the child presenting would be seen as a warning sign, rather than as a criminal. Individuals who exploit children for criminal activity are not being held to account. As my hon. Friend the Member for Cardiff North said, only 30 charges under the Modern Slavery Act 2015 were flagged as child abuse in 2019-2020, against the 22,000—I think that was the figure—recognised by the Children's Society in the same period.

Organised crime groups are aware of this situation and they are deliberately targeting children, because they know that by putting them on the frontline, it is much less likely that they themselves will be in the dock. The Government rightly adopted the statutory definitions of domestic abuse, coercive control and child sexual abuse, so I urge the Minister to do the same for vulnerable children experiencing criminal exploitation; they are victims, just as children of CSE are victims.

I will end with an example. I imagine that two thirds of Members, if not more, get here each week by train. I set those Members a challenge: speak to a train conductor, and I guarantee that they will be able to give daily examples of child criminal exploitation. They see the children going backwards and forwards, often without

tickets but often with tickets paid for by the gang leaders. On my train, staff say that now they do not even bother looking for the children, because the common denominator is the bag that they carry either the drugs or the money in. It is different children going up and down, up and down, up and down—so conductors look for the bag and then report it to British Transport police.

British Transport police is funded by the railways. The service has a small budget and there are very few officers, so the likelihood of one being there when that train arrives is slender. Organisations like Railway Children try to support those children, but I guarantee that if Members speak to the conductor on their train, they will say, "Yes, that is happening on my train."

11.15 am

**Lia Nici (Great Grimsby) (Con):** We are all very concerned about the example given by the hon. Lady. Why are the conductors and British Transport police not reporting those children to the police? That does not seem to be to do with the Bill; it seems to have something to do with what is happening in our criminal reporting processes.

**Sarah Champion:** Sadly, they are reporting it to the police, but the scale of the issue is so enormous and the resources are so intensive that nothing happens. I suggest the hon. Lady speak to her conductor. Normally what happens is that the child will be offered some support, but will then be very up front with the conductor, saying, "No, no—it's my bag!" and so on. The child then gets off and there are not the resources to have a member of the British Transport police there, and that genuinely is not a criticism of them; I think there are only 4,000 officers for the whole country.

**Lia Nici:** I mean the police—not the British Transport police.

**Sarah Champion:** British Transport police are the specific police for incidents that happen on the railways and transport networks. Even if we were looking at the Metropolitan police—I am going back and forth to London—the scale of the issue is so enormous that there is not the capacity to deal with it.

**Jess Phillips:** As somebody who has called the police in those circumstances, we are talking about a nine-day wait for anyone to come out. That is a problem.

**Sarah Champion:** Minister, it seems a ridiculously simple act to accept these two definitions, but the cascading of support and recognition within the victims code and our justice system would be enormous as a consequence. I have seen that at first hand with child sexual exploitation. I urge the Minister to look seriously into the two definitions.

*Ordered,* That the debate be now adjourned.—(Fay Jones.)

11.18 am

*Adjourned till this day at Two o'clock.*



