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Public Bill Committee

VICTIMS AND PRISONERS BILL

Sixth Sitting

Tuesday 27 June 2023

(Afternoon)

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Saturday 1 July 2023

The Committee consisted of the following Members:

Chairs: Julie Elliott, Stewart Hosie, † Sir Edward Leigh, Mrs Sheryll Murray

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

Anne-Marie Griffiths, Bethan Harding, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 27 June 2023

(Afternoon)

[Sir Edward Leigh *in the Chair*]

Victims and Prisoners Bill

Clause 1

Meaning of "victim"

Amendment proposed (this day): 17, in clause 1, page 1, line 16, at end insert—

"(e) where the person has experienced child criminal exploitation;"—*(Anna McMorrin.)*

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

2.1 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing 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.

The Minister of State, Ministry of Justice (Edward Argar): Amendment 17 seeks to include in the definition of a victim those who have experienced child criminal exploitation and have suffered harm as a direct result. I am grateful to the hon. Member for Rotherham for raising this issue, which the Government agree has a devastating impact. This morning, right hon. and hon. Members did what this House does well: they gave a voice to the voiceless.

I want to reassure hon. Members that large elements of the amendment are encapsulated in the Bill, and I hope I am able to offer something that goes at least some way to satisfy the hon. Lady and the hon. Member for Cardiff North. The Government are committed to tackling county lines and associated child criminal exploitation, and outside the Bill we have invested up to £145 million over three years to crack down on criminal gangs exploiting children and young people.

In addition, as part of the county lines programme, the Government continue to support victims of child criminal exploitation. We have, for example, invested up to £5 million over three financial years—2022 to 2025—to provide support to victims of county lines exploitation and their families. That includes a specialist support and rescue service provided by Catch22 for under-25s in priority areas who are criminally exploited through county lines to help them to safely reduce and exit their involvement. It also includes a confidential national helpline and support delivered by Missing People's SafeCall service for young people and their families.

As the shadow Minister said, it is important to remember that although county lines is often the first issue to catch the attention of the media or this House, child exploitation goes way beyond that crime. We are therefore also targeting exploitation through the Home Office-funded prevention programme, delivered by the Children's Society. That programme works with a range of partners to tackle and prevent child exploitation regionally and nationally.

I assure hon. Members that children who have been exploited for criminal purposes are indeed victims in the context of the Bill if the conduct they have been subjected to meets the criminal standard. Regardless of whether the crime has been reported, charged or prosecuted, those victims are already covered under part 1 of the Bill and the victims code.

Child criminal exploitation is already captured by a number of criminal offences under the Serious Crime Act 2007, the Misuse of Drugs Act 1971 and the Modern Slavery Act 2015. However, as the hon. Member for Rotherham highlighted, in some cases the exploitative conduct may not itself be criminal. The measures in part 1 of the Bill have specifically and fundamentally been designed for victims of crime and seek to improve their treatment, experiences of and engagement with the criminal justice system. Therefore, where the criminal exploitation is exactly that—criminal—the victims are already covered by the Bill's definition of a victim of crime.

The definition of a victim, as I said previously, is deliberately broad. Within reason, we are seeking to be permissive, rather than prescriptive, to avoid the risk that specifying particular subgroups could inadvertently exclude those who do not fall into specific descriptions and definitions.

Amendment 18 seeks to provide a definition for child criminal exploitation. The Government recognise that the targeting, grooming and exploitation of children for criminal purposes is deplorable, and we share the hon. Member for Rotherham's determination to tackle it. The Government have already gone some way to defining child criminal exploitation in statutory guidance for frontline practitioners working with children, including in the "Keeping children safe in education" and "Working together to safeguard children" statutory guidance. We have also defined child criminal exploitation in other documents, such as the serious violence strategy, the Home Office child exploitation disruption toolkit for frontline practitioners, which was updated in July last year, and the county lines guidance for prosecutors and youth offending teams.

The Modern Slavery Act 2015 states that when children who are under 18 commit certain offences, they are not guilty if they were committed as a direct result of exploitation. Prosecutors must consider the best interests

and welfare of the child or young person, among other public interest factors, starting with a presumption of diverting them away from the courts where possible.

Sarah Champion (Rotherham) (Lab): The Minister highlights the problem: there are lots of different documents with lots of different Departments and support teams where the Government have felt comfortable defining child criminal exploitation, and there is fragmentation across Government. The Bill offers the opportunity to define child criminal exploitation so that it is seen clearly that such children are victims of that exploitation. I will be frank with the Minister: the victims ought to be recognised in the Bill, but they are not. My hon. Friend the Member for Cardiff North and I are trying to use this as an opportunity to force the Government's hand to make that definition, so that any person in the public or private sector who sees those children can understand that they are victims.

Edward Argar: When I conclude in a moment, I hope that I might have given the hon. Lady a little more reassurance. In respect of her specific point, the Government have previously explored the introduction of a statutory definition of child criminal exploitation with a range of operational and system partners. They and the Government concluded that the existing arrangements allow sufficient flexibility to respond to a range of circumstances while still ensuring actions when that consideration was undertaken.

I reassure the hon. Members for Rotherham and for Cardiff North that we continue to keep under review the issue and the legislation. The previous consultation with partners suggested that the right tools, powers and offences were already in place to tackle the issue.

Sarah Champion: I wonder who the Minister is talking to, because this amendment is supported by the children's sector, including the Children's Society, the NSPCC and Barnardo's. The children's sector wants this, so I do not understand who he is talking to who does not.

Edward Argar: I mentioned operational partners, and in this context, that refers to partners in the criminal justice system, such as the prosecution authorities, the police and others. I take the hon. Lady's point about the wider stakeholder and sector support. If she allows me to make a little progress, we will see if it reassures her sufficiently.

Turning to amendments 51 and 52, amendment 51 seeks to ensure that persons who have experienced adult sexual exploitation are explicitly referenced in the definition of a victim. Adult sexual exploitation could be considered to consist of numerous criminal acts, some of which include human trafficking, controlling and coercive behaviour, causing or inciting prostitution for gain, controlling prostitution for gain, and rape and other serious sexual offences. I reassure hon. Members that adults who have been subjected to such criminal conduct are victims under part 1 of the legislation and under the victims code. My concern is therefore that the amendments would duplicate the existing coverage of the definition of a victim of crime. Again, the definition is deliberately broad to avoid inadvertently excluding a particular group or victim through being overly prescriptive.

Amendment 52 is intended to create a definition of adult sexual exploitation. Acts that can constitute adult sexual exploitation are, again, already covered by a number of existing offences.

Jess Phillips (Birmingham, Yardley) (Lab): While they are covered by a number of different offences, much like domestic abuse, there is no charge or crime of domestic abuse, yet the Government felt it important to define domestic abuse in the Domestic Abuse Act 2021 for all the same reasons that my hon. Friend the Member for Rotherham tried to point out: it is currently written nowhere in any Government guidance, or any strategy to tackle adult sexual exploitation. That is what the amendment is intended to address.

Edward Argar: I am grateful to the hon. Lady. She may well push me in a slightly different direction, but I am always a little cautious of seeking to read across a precedent in one piece of legislation to a range of other areas. There may be occasions when it is universally applicable, but in other cases I would urge a degree of caution.

We have yet to see unequivocal evidence that a single definition or approach would better achieve delivery of our commitment than the current approach. However, I am happy to discuss it further and work with the hon. Member for Rotherham, the shadow Minister, the hon. Member for Cardiff North, and others between Committee stage and Report. As is the nature of the Committee stage, the amendments were tabled a few days ago—last week—and inevitably, when something significant is suggested, it is important to reflect on that carefully. I intend to reflect carefully on the points that have been made. I will not pre-empt the conclusions of my reflections, but I will engage with the hon. Member for Rotherham, and the shadow Minister if she so wishes, to see what may be possible between Committee stage and Report. On the basis of that commitment to engage, I hope that the hon. Member for Rotherham and the shadow Minister might, at this point, consider not pressing the amendments to a Division.

Anna McMorrin (Cardiff North) (Lab): I thank the Minister for his response and the Committee for this debate on child criminal exploitation. I particularly thank my hon. Friend the Member for Rotherham for tabling the two critical amendments that look at adult exploitation as well as child criminal exploitation. She made excellent, and really quite emotive, points about a victim of child sexual exploitation, of course due to coercion and control, reaching the age of 18, when it is suddenly questioned as "unwise choices". I appreciate the points that the Minister made. He appreciates that there is a real issue. As I set out earlier, there is widespread concern among all the agencies and charities working on this that child criminal exploitation takes a variety of forms. Ultimately, the grooming and exploitation of children into criminal activity needs to be addressed.

To take up the Minister's point about using one statutory definition, at the moment safeguarding partners are working to so many different understandings, as my hon. Friend the Member for Rotherham said, of what constitutes criminal exploitation that there is no meaningful or consistent response across criminal justice agencies and safeguarding partners, which is critical when dealing with such matters.

[Anna McMorrin]

I appreciate that the Minister is prepared to work together, and I hope that he has listened to our arguments. It sounds as though he is coming to the agreement that we will work together to address this matter in the Bill. Therefore, on reflection and having heard those points today, I will seek to bring this proposal back at a later stage of the Bill but will not press it today.

2.15 pm

Sarah Champion: I thank the Minister. We have worked together for a long time, and he knows that I can be like a dog with a bone when it comes to things like this. I will take what he has said absolutely at face value. I am really grateful for the opportunity to explore the matter with him further, and because of that, I will not press my two amendments at this point.

Anna McMorrin: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Champion: I beg to move amendment 46, in clause 1, page 1, line 16, at end insert—

"(e) where the person is the child of a person posing sexual risk to children."

This amendment would include children of a person posing a sexual risk to children (that is, paedophiles (including perpetrators of offences online), suspects or offenders) as victims.

I don't get out much, Sir Edward—and neither do you, because of that! I ask the Committee to listen to my speech on this issue with an open mind, because when I first came across it, it took me a little time to get my head round it, but to me now, it seems the most obvious thing. I am talking about recognising the children of paedophiles as victims. That is what my amendment seeks to make happen. Just as we have now—I thank the Minister and the Ministry of Justice—made a huge step forward in defining children born of rape as victims in this legislation, so we need to ensure that other secondary victims will also be entitled to rights under the victims code. The children of any paedophile are disproportionately impacted when their parent is investigated, charged and jailed, and I make a plea for them to be considered within the definition of victims.

Just like domestic abuse, the illegal activity is committed, most often, within the family home—the child's "safe space". Social services view the parent as potentially posing a sexual risk to any child from day one of an investigation, not from a guilty verdict. I will give the Committee an example from my constituency. About five years ago, a lot of single mothers were coming to me with real concerns about the heavy-handedness of social services around child protection—their child's protection. They were really confused as to why social services were doing this. When I intervened on their behalf, I realised that it was because the other parent of the child was being investigated for—in this case—organised child sexual exploitation. Social services could not tell the mother what was going on, for fear of tipping off the other parent, but they had serious safeguarding concerns in respect of that parent in that house because of the father's activities. This is a very real thing that happens; it has a very real basis.

Amendment 46 is crucial, because it specifically identifies children of a person posing sexual risk to children. These people are known as PPRC—persons posing a risk to children—by the police when they are under investigation and not just once they have been charged. The family unit structure, including the household economics, is generally impacted in a dramatic way—irrespective of the outcome of the investigation—because of the immediate protective measures put in place by agencies. For the family's safety, the nature of the investigation is almost always kept confidential, thus increasing the vulnerability of these children within the whole secrecy around CSA. Investigations and convictions shape the child's childhood, as interactions with the parent are controlled by restrictions imposed by the judicial system. The child loses all autonomy within the relationship with the suspect or offending parent, for safeguarding purposes—which we can completely understand—until they are over the age of 18.

Negative community judgment for close associates of CSA suspects is highly prevalent and can be magnified by media coverage at the court. If we think about our local papers, once someone is charged with such crimes, their name, address and photos all get into the public domain, whether by media, once the conviction has happened, or most likely by Facebook and well-meaning neighbours trying to protect their own children. The stigma that causes for the child is untold.

I have worked with the survivor Chris Tuck for many years. She is an active campaigner on child protection. She has asked me to read her case study about what happened to her:

"I grew up in 3 domestic violence households where witnessing and experiencing abuse every day was the norm.

My dad and step mum were not good for each other or to us children. The abuse intensified via domestic violence and child abuse.

This chaotic dysfunctional abusive home life led to us being vulnerable to abuse outside the family home. I was sexually abused by a school bus driver in 1979…In 1980/81 my dad George Frances Oliver was convicted of child sexual abuse against some of the children in the household (not me).

I remember very clearly when my dad was arrested for his crimes.

It was an odd day; 3 of us children came home from school and dad was lying on the sofa reading. It was eerily quiet, my step mum, my sister and stepsisters were not there.

We were just speaking to dad about this fact when there was a loud crashing noise and lots of shouts of 'Police! Police!'.

The police stormed into the room and arrested my dad, it was very frightening to witness and caused us a lot of distress. We did not know what was happening.

I remember the police taking us 3 children to our eldest stepsisters' house where my step mum, other stepsisters and sisters were waiting.

That is where I was told what my dad had done. I didn't believe it. I couldn't believe it.

In my head I was trying to reconcile what the school bus man had done to me and now my dad had done those things and worse to other children in the house.

I felt sick, I felt dirty, I felt shame. I felt betrayed and let down by my dad. The man I loved at the time.

Dad was put on remand and eventually convicted of his crimes. I find out about this at school, in the playground. One day a boy shouted out 'your dad is a paedo....dirty paedo'.

I didn't know what that word meant. But I knew it was bad by the way it was said and I knew what my dad had done. I had experienced a little of what my dad had done via my own experience of sexual abuse and the internal examination I had at the Police station.

Dad's sentencing had been written up in the local paper. Again, it felt like everyone knew. Everyone was judging me, us, for the crimes committed by my dad.

Again, I felt sick, I felt dirty, I felt shame. I felt bad to the very core of my being. This I carried with me well into my adulthood.

Again, no support was given to any of us as children and young people.

The legacy of my dad being a convicted paedophile lived with me into my mid 40s when I paid for specialist professional help and support to deal with the trauma from deep unexpressed feelings and emotions.

When I left home at nearly 16, I wrote my childhood off, I never told anyone about anything. I put on a mask for over a decade and I tried to build a new life for myself. I battled with bulimia and anger management throughout my teens and twenties.

If I had been classed as a victim, as a child and young person and given the help and specialist support at the time of each incident throughout my life I would not have had the hardship of dealing with the trauma and ill-health (mentally and physically) I have experienced as a result during my adulthood.

Recognising children and young people as victims of crime perpetrated through association needs to be recognised because there is a trauma impact as I have described.

Just knowing what is happening when it comes to the perpetrator and their movements—where they are imprisoned, when they are going to be released and where—is a must for the peace of mind of all involved."

That experience has become even more common with online child sexual offences, which have increased dramatically. The trauma for the child usually begins once police execute a search warrant of the family home, often referred to as "the knock", after the police have received the information regarding the online suspect. That, I would say to the Minister, would be the ideal point to intervene to prevent further trauma, but currently that is not happening. Records for 2021 show that there were 850 knocks a month. Children were present for 35% of those knocks. That compares with 417 knocks per year in 2009-10, and I fully expect those numbers to keep on going up, with all the police are telling us about the exponential rise of online child abuse.

Children are unseen victims of this crime, but are not recognised as such or given the support they need. Often, families do not receive information about the offence, court proceedings or sentencing until they are told by the offender, if they are told by the offender. If the children were defined as victims, they and their parents would be entitled to receive such information. Having the victims code apply here would address some of the key issues for children and for non-offending parents, including information from police and access to support services.

Let us be honest: the knock disproportionately affects women, who are often forced to give up their job as a consequence, take time off sick, move home, supervise access, manage childcare, manage supervision and take on the burden of minimising the suspect's risk of suicide or reoffending. Women are effectively treated as a protective factor, but they have no protection themselves.

I have worked on the amendment with Talking Forward, a charity that funds peer support for anyone whose adult family member has been investigated for online sexual offences. It is much more common than Members realise. Currently, three police forces refer families automatically to Talking Forward, but that could be broadened out nationally, if the amendment is accepted. Lincolnshire police now have a dedicated independent domestic violence adviser-type role for such families. Again, if the amendment is accepted, that could be rolled out more broadly to provide specialist support.

The first step must be to recognise children of child sexual abusers, whether physical or online, as victims. That will reduce costs in the long term, whether that is by ensuring children have immediate support or reducing costs to the family courts. I ask the Minister to accept this amendment.

Edward Argar: As the hon. Lady set out, amendment 46 would include persons who have suffered harm as a direct result of being a child of a person who poses a sexual risk to children, for example a paedophile, in the definition of a victim. I am grateful to her for raising this important issue and I reassure her that the Government absolutely sympathise with the challenges faced by the unsuspecting families of sex offenders and those who pose a sexual risk to children.

If family members in these circumstances have witnessed criminal conduct, they are of course already covered by the Bill's definition of a victim—that is, if they have been harmed by seeing, hearing or otherwise directly experiencing the effect of the crime at the time the crime happened. I think the hon. Lady would like to go somewhat more broadly, to those who may not have been there at the time or have directly witnessed the crime, but who may still suffer the impacts of that criminal behaviour. I know that she is interested in support more broadly for the families of offenders and those impacted.

As the hon. Lady rightly said, that cohort would not come within our definition of a victim, which is deliberately crafted in both the Bill and the victims code to be designed for those who have been harmed directly by the crime in question and therefore need the broader entitlements in the code to navigate the criminal justice system, as well as to receive support. On this occasion, therefore, I must resist the broadening of the scope of clause 1 that the amendment would bring.

Maria Eagle (Garston and Halewood) (Lab): The Justice Committee, in its pre-legislative scrutiny of the clause, did ask the Government to extend the coverage of these provisions to include children born of rape as secondary victims, and they responded positively. Is there a difference between the case that my hon. Friend the Member for Rotherham made for the children of paedophiles and the concession—that is the wrong word for it; it is technically correct, but I am not trying to suggest that the Government have given in—made in accepting the Justice Committee's suggestion that children born of rape should be included? Is there a technical difference, because I am failing to see it at the moment?

2.30 pm

Edward Argar: The technical difference, or the difference as we see it, is that in the case of the Justice Committee's PLS recommendation the individual was born as a direct consequence of a criminal act. In the case to which the hon. Member for Rotherham referred, the individual is not experiencing something as a direct consequence of a criminal act, but there are of course impacts on them.

[Edward Argar]

That is the difference that we draw, but it does not mean that this cohort is not deserving of support on their own terms, and I will touch briefly on what is available.

His Majesty's Prison and Probation Service funds the national prisoners' families helpline, which provides free and confidential support for those with a family member at any stage of their contact with the criminal justice system. There are also several charities—I suspect that the hon. Lady works with them on these issues—that provide specific support for families affected by the actions of a family member, including support for prisoners, people with convictions, and crucially their children and families, and support for families that have been affected by sexual abuse.

We will continue to consider how best to support and protect those impacted by crime as well as victims of crime, who are directly covered by the Bill. I therefore gently encourage the hon. Lady not to press her amendment to a vote at this stage. She may wish to return to it, but I will continue to reflect carefully on what she has said. We sit and listen, but we may miss some nuances, so I will read the report of what has been said carefully.

Sarah Champion: I am grateful to the Minister for keeping an open mind. What is needed most is information on the criminal justice process for those family members, which would automatically be afforded under the victims code. I am grateful for his offer to read the report and see whether there is something that we can do. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Jess Phillips: I beg to move amendment 54, in clause 1, page 1, line 16, at end insert—

> "(e) where the death by suicide of a close family member of the person was the result of domestic abuse which constitutes criminal conduct."

We have all had a long time while the Bill has been going through to campaign, successfully, on various things through various means, including, as my right hon. Friend the Member for Garston and Halewood mentioned, around the pre-legislative scrutiny. Those of us who have been fighting for child victims born of rape were pleased to see that concession. Another area that many of us have campaigned on is recognition of people who are victims of homicide but not direct victims. If someone's daughter is murdered, they are a victim of that crime. Both those concessions have come about, and not dissimilarly to my hon. Friend the Member for Rotherham I wish to push the envelope a little further, and talk about those who die by suicide as a direct result of being a victim of domestic abuse.

I met a mother at a memorial service for violence against women and girls. Just yesterday, she emailed me. Her daughter died in 2018. She wrote:

> "If my daughter hadn't met him, she would still be alive, her children still have a mother, me my precious only daughter…Why is the associated link between 'domestic abuse' and 'suicide' ignored? Overlooked are the 'compensating' mechanisms—substance abuse, alcohol, 'mental health issues' then used by so called 'professionals' as the reason 'why' they have taken their lives...the link is the perpetrator and the victim, NOT the substances. They are often used by the victim to 'escape' from the relentless mental, physical abuse and torture. They don't want to die, merely 'escape' from the traumatic situations. They are in Hell."

Families who have lost loved ones to suicide following domestic abuse should be recognised as victims, in the same way as those who lose family members to murder are supported.

Ellie Reeves (Lewisham West and Penge) (Lab): My hon. Friend is making a powerful speech. I want to mention the family of Gemma Robinson. Gemma was the victim of a horrific assault by a former boyfriend. She took her own life in 2020 due to the fear of facing her attacker in court. Gemma's sister, Kirsty, has spoken about the devastating impact of Gemma's death on the whole family. The family were then left to face the sentencing of the perpetrator, Gemma's inquest and the domestic homicide review all on their own, without support. Does my hon. Friend agree that Gemma's case highlights why it is so important that relatives in these types of cases are recognised as victims?

Jess Phillips: I thank my hon. Friend. Our hearts go out to Gemma's family. That is exactly the reason why I tabled the amendment and why the Labour party seeks to have these people recognised. That recognition would allow such relatives to access the support and care they need, and begin to shine a light on a shamefully under-scrutinised and ignored sphere of criminality and wrongdoing.

We do not need to look much further than the facts of the cases and the experiences of the families to realise that those relatives should be recognised and have the support and guidance that that would, or should, bring. The criminality and wrongdoing in those cases, the interaction with court processes and the justice system, and the trauma experienced, make the argument for inclusion clear. Although in many cases, they may not ever get a criminal sanction against the perpetrator, there are inquests and domestic homicide reviews, as my hon. Friend said. Honestly, to be a victim in this country, whether that is one recognised by this Bill or not, is hard work. Imagine doing that work when your daughter or your sister has died.

There are other concerns about why this recognition is important, which are to do with unchecked criminality and wrongdoing. In these heartbreaking cases, where the deceased took her own life—I use the pronoun "she" due to the gendered nature of domestic abuse—there is clear evidence that she was driven to suicide by the abuse she suffered at the hands of a domestic abuse perpetrator.

The feelings of injustice for bereaved families when the abuser escapes all responsibility for the death must be unbearable. Families find themselves in an agonising position of having watched their loved one experience horrendous criminality—violence, abuse, coercive control—and the unrelenting horror day after day, hour after hour, until their loved one was driven by desperation to take their life. Currently, in those cases, criminality is going completely unchecked, un-investigated and unchallenged. Perpetrators remain free to harm again and again. Bereaved families are left feeling failed by the justice system, and the opportunities to address issues and learn lessons are being missed.

There has been one successful prosecution of that type of case. In 2017 R *v.* Allen, the perpetrator pleaded guilty to manslaughter—if we are relying on cases where men plead guilty, we are on a hiding to nothing—in respect of the death of his former partner, Justene Reece, who had taken her own life after experiencing years of

coercive control, stalking and harassment. Justene had left a suicide note explaining that she could not endure her stalker's behaviour any longer. That case is a clear precedent.

Janet Daby (Lewisham East) (Lab): Only last week, we heard from the Domestic Abuse Commissioner, who said that the broader the definition is, the better it will be for victims.

Jess Phillips: Absolutely. I have worked with the Domestic Abuse Commissioner. There is a huge area of hidden homicide that we are concerned about, and suicide is one of the areas where we are just not getting the data about how many women are dying because of domestic abuse, unless they are directly killed.

The case that I described provides a clear precedent, and there is hope that more cases will follow, but currently families find very limited access to such justice and answers. It is clear that for such prosecutions to happen, police officers must proactively undertake evidence gathering for domestic abuse offences post death, for example by listening to the concerns of family members, taking witness accounts, reviewing records held by medical, statutory and third sector agencies, and looking through financial records and electronic communications. This is not commonplace in cases of domestic abuse where the victim is alive. It is certainly not commonplace in cases where the victim has died.

The police seem to have a distinct lack of professional curiosity in such cases. In research by Advocacy After Fatal Domestic Abuse and the University of Warwick, titled "An Analysis of Domestic Homicide Reviews in Cases of Domestic Abuse Suicide", families reported police failing to investigate adequately, police not acting on the information given by families and friends about perpetration of domestic abuse, evidence not being captured, evidence and personal effects of the deceased being returned to the surviving partner or ex-partner, police not considering domestic abuse when attending suicide cases, and a lack of senior police oversight in investigations of suicides.

One family member included in the research submitted 74 exhibits of screenshots and photographs in the aftermath of her daughter's death, but felt dismissed out of hand by the officer in charge when she presented them. She said:

"I said to him, I've brought this because I think it's important information. Every time he took a piece of paper off me…[he] slammed it on the desk. I said to him, are you not going to look at them? He said, there's no point…it's irrelevant…your daughter took her own life…It was like she wasn't important when she was alive and…she's not important now she's dead."

Other institutions also deny these families any form of justice or an understanding of what happened to their loved one. Take domestic homicide reviews. In many cases, even though the statutory criteria are met, families have to fight tooth and nail to ensure that a domestic homicide review is commissioned, normally only with the help of an advocacy organisation such as AAFDA. Inquests and coroners courts often demonstrate a lack of understanding of domestic abuse. In the research I mentioned, one DHR chair reflected that, in their experience,

"Coroners often see...women as kind of weak, they're so misguided and they take their own lives, and they should have stood up for themselves and left…So you get that kind of reference to, you know, extreme attention-seeking. And it's not that. It's that you're utterly worn down by someone who often is so cleverly manipulative…I don't think Coroners understand that at all and the barriers to leaving and all those sorts of things…I don't think they have an understanding of how all these little things are really damaging."

Those examples of interactions with criminal justice systems or inquest procedures clearly highlight the crucial need for advocacy and support for families who lose a loved one to suicide following domestic abuse. One family member explained that

"you're thrust, in a nanosecond your life flips on its axis, and not only are you dealing with the impact of losing someone so precious, especially in circumstances like this…you have to learn a whole new language…and then there's timeframes, you've got to have this done by that…you've got this agency asking you for that, you've got someone questioning you, the police are calling you up".

Research has found that having access to support and advocacy is overwhelmingly positive for families, helping them to feel empowered, but for most that support comes about only by luck or lengthy effort on their part. The mental health impact must not be underestimated. The trauma experienced by families is unimaginable. As one professional who works with such bereaved relatives put it, losing a loved one to suicide is

"one of life's most painful experiences. The feelings of loss, sadness, and loneliness experienced after any death of a loved one are often magnified in suicide survivors by feelings of guilt, confusion, rejection, shame, anger, and the effects of stigma and trauma. Furthermore, survivors of suicide loss are at higher risk of developing major depression, post-traumatic stress disorder, and suicidal behaviors, as well as a prolonged form of grief called complicated grief. Added to the burden is the substantial stigma, which can keep survivors away from much needed support and healing resources. Thus, survivors may require unique supportive measures and targeted treatment to cope with their loss."

It is clear that families who find themselves in that devastating situation desperately need more support to navigate the complex legal processes and get access to the support they need.

2.45 pm

Before I close, I want to argue that recognising relatives as victims in this way is also symbolic of the need for much greater scrutiny and reform in this area of policy. We do not even know the true scale of the issue, because of the lack of data. The Centre for Women's Justice states:

"As far as we are aware, the only research that addresses the national level prevalence of domestic abuse-related suicide in England and Wales is research by Sylvia Walby, published as far back as 2004. She extrapolated from research conducted elsewhere to suggest that more than one-third of female suicides in England and Wales are partly caused by women having been subjected to domestic abuse. Despite this alarming finding, there has not been further research to gather national data on this issue directly."

That is unacceptable. This area of policy urgently needs addressing to support and protect the families, but also to stop abusers being allowed to escape any form of justice.

I cannot complete this speech without drawing the Committee's attention to another cohort of cases: "suicides" that are potentially suspicious deaths following domestic abuse. These are cases where domestic abusers could be literally getting away with murder by killing their partner and staging it as a suicide. We know that such cases happen. For example, the death of Lesley Potter was

presented to the police by her husband Derek Potter as a suicide. He later admitted that he had strangled her to death. Katie Wilding and her partner Mitchell Richardson were found dead from drug overdoses. Richardson had been convicted of assaults against her, and she was deemed at high risk. A month before, he had told Katie's mother that he would kill her daughter with drugs before killing himself.

Families of those whose deaths are immediately treated by police as suicides, including by hanging and overdose, report that crucial evidence is lost right from the moment that the police arrive. The area is not treated as a crime scene, the scene is not secured, and the golden hour when evidence should be preserved is lost. Despite families reporting a history of domestic abuse and violence to police in these situations, and reporting that the perpetrator of that abuse might be involved in their loved one's death, they are not questioned, forensics are not taken, witnesses are not spoken to and phone records are not preserved. The coroner is notified of the death, but no forensic post mortem will be requested.

Families in the midst of extreme grief have no idea at that moment of the importance of that golden period. Cases are not continued through the criminal court, and when it comes to the inquest families have limited or no evidence with which to explore their concerns and the circumstances that led to the death of their loved one. Murderers are literally getting away with murder because of the lack of competent investigation by police.

We must start seeing these "suicides" as what they are: horrific criminal actions that have led to a death, commonly of a woman. We must demand professional curiosity in these cases so that they are investigated competently. We must have court processes that reveal the truth and deliver justice. We must support the families going through hell, who just want answers. Recognising these families as victims is a step in the right direction, but we must go much further.

Edward Argar: I am grateful to the hon. Member for Birmingham, Yardley for raising this important issue and for referring, as the right hon. Member for Garston and Halewood did, to pre-legislative scrutiny. I hope to have given Committee members some encouragement that on occasion I agree to changes, and perhaps to a different approach from that in the original draft of the Bill.

As the hon. Member for Birmingham, Yardley set out, her amendment 54 would extend the definition of a victim in the Bill explicitly to include families impacted by the death by suicide of a loved one as a result of domestic abuse. In her remarks, the hon. Lady quite rightly went wider than that, highlighting investigatory issues and broader prosecutorial issues. I have—as, I suspect, does every member of the Committee—huge sympathy for the families in the position that she set out. Before I turn specifically to the impact of her amendment, and I wish to touch on some of the support available for them,.

The Ministry of Justice provides police and crime commissioners with grant funding to commission local, practical, emotional and therapeutic support services for victims of all crime types, based on their assessment of needs. The Department for Health and Social Care has committed to publishing a new national suicide prevention strategy later this year and is engaging widely across the sector to understand what further action can be taken to reduce cases of suicide. The strategy will reflect new evidence and national priorities for suicide prevention across England, including actions to tackle known risk factors and targeted actions for groups at particular risk or groups of concern. An additional £57 million is being invested in suicide prevention by March 2024, through the NHS long-term plan.

I agree with the hon. Lady about the importance of the issue. With regard to her amendment, we are not convinced that explicitly extending the definition of a victim of crime in the Bill and the code is the right approach to appropriately support the families. Part 1 of the Bill specifically sets out how victims who have suffered harm as a direct result of criminal conduct are treated by and supported to engage with the criminal justice system. Our view is that that group is largely covered by the Bill's definition of the bereaved family of a person who has died, including by suicide as a direct result of domestic abuse, which is captured by clause 1(2)(c):

"where the death of a close family member of the person was the direct result of criminal conduct".

In the context, domestic violence is criminal conduct. I appreciate—this is potentially where the nuance lies, and why the hon. Lady might be pushing for greater clarity—that that will be fact-specific for each case in the circumstances. It is a complicated area and each case will be complicated but, as I say, we believe that clause 1(2)(c) captures this.

I know that we have discussed the need for clarity and awareness about entitlements among victims and agencies. As I am sure the hon. Member for Birmingham, Yardley is aware from her shadow ministerial role, the Government are consulting on and clarifying the position in the domestic homicide review to formally recognise this cohort of victims. With her permission, I will gently encourage her not to press her amendment at this point, but in the context of the broader work being done I hope she will allow me, in the short term, to write to her with greater clarity on our interpretation of clause 1(2)(c)—she may wish to challenge that in the future, of course; she is entitled to—and to see if we are able to factor in the broader work being done before we reach Report.

Jess Phillips: I thank the Minister. I would absolutely welcome it if he wrote to me and the Committee about exactly how clause 1(2)(c) encompasses what I seek, so that those families have an opportunity. It is good when Ministers say things in Committee that we can use to ensure that families get support. I will withdraw the amendment at this stage. I am not always especially keen on the Government, but the level of progress in the area of hidden homicides, certainly under the previous Home Secretary, is to be admired. I do not think that the Government are without concern on the issue of suicide in cases of domestic abuse. Thanks to what the Minister says, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Champion: I beg to move amendment 63, in clause 1, page 1, line 16, at end insert—

"(e) where the person is a child under the age of 18 who has suffered harm and is a victim of, or a witness to, criminal conduct."

The Chair: With this it will be convenient to discuss amendment 42, in clause 2, page 2, line 25, at end insert—

"(3A) The victims' code must make provision for services for victims who are children under the age of 18 who have suffered harm and are victims of, or witnesses to, criminal conduct.

(3B) In determining what services are appropriate under subsection (3A), the Secretary of State must have regard to the provisions of the Youth Justice and Criminal Evidence Act 1999 in respect of children under the age of 18."

This amendment would require the victims' code to contain specific provision for children who are victims or witnesses, in line with the provisions of the Youth Justice and Criminal Evidence Act 1999.

Sarah Champion: Amendments 63 and 42 are supported by the NSPCC; I am grateful for its help, which has enabled me to table them. They are designed to ensure that all children under the age of 18 who have experienced harm as a victim of or witness to a crime are within the scope of the Bill and have access to special measures in line with the existing provisions on vulnerable witnesses in the Youth Justice and Criminal Evidence Act 1999.

The inclusion of children as victims of domestic abuse within clause 1, in accordance with the Domestic Abuse Act 2021, is welcome. However, children experience many different forms of abuse, exploitation and serious violence, as shown by the remit of the Bill. In many cases, children can experience more than one form of abuse at the hands of one or multiple perpetrators.

The scale of child abuse in this country, as we know, is devastating. The Centre of Expertise on Child Sexual Abuse estimates that, based on the available evidence, one in 10 children in England and Wales are sexually abused before the age of 16. At a conservative estimate, the number of children sexually abused in a single year is around half a million. In 2021-22, there were more than 16,000 instances in which local authorities identified a child sexual exploitation case as a factor at the end of an assessment by social workers. There were 11,600 instances in which gangs were a factor, and 10,140 in which child criminal exploitation was a factor. Research by the Children's Commissioner found that 27,000 children were at high risk of gang exploitation but had not been identified by services, and were therefore missing out on vital support to keep them safe.

For the Bill to truly support all young victims and witnesses, clause 1 must refer to the eligibility criteria in the Youth Justice and Criminal Evidence Act 1999, which provides for enhanced rights and special measures for those under the age of 18 at the time of the offence. The victims code of practice also recognises the issue, under its definition of "vulnerable or intimidated" victims, by affording eligibility to under-18s to have access to enhanced rights and special measures. Special measures include, but are not limited to, screening witnesses from the accused, providing evidence by live link, the removal of wigs and gowns, and video-recorded cross-examination.

However, despite the Crown Prosecution Service stating that special measures are available for vulnerable and intimidated witnesses to give their best evidence in court—and to help to relieve some of the stress associated with giving evidence—the Victims' Commissioner has found that young victims were neither informed about nor in receipt of all their rights under the victims code, including access to special measures. For many children, the current justice system is simply not supporting their needs. That often compounds the abuse that they have suffered.

In oral evidence last week, this Committee heard the Children's Commissioner explain that children and young people do not necessarily understand or report their experiences in the same way as adults. NSPCC research has previously found that special measures were seldom used. Being accompanied by a neutral supporter of the young witness's choice, closing the public gallery in sexual offence cases, combined special measures—such as preventing the defendant's view of the child on the live link—and giving evidence over a live link, away from the trial, were sadly rarely used. Some areas had no non-court remote sites at all.

Our courts desperately need the funding and resources to ensure that there are suitable facilities accessible for all victims' needs and preferences. I welcome the roll-out of section 28 pre-recorded evidence in all courts, but it is key that the victim or witness can provide their evidence how they choose. For children, we must ensure that that is an informed choice.

NSPCC research also found that 150 witnesses waited an average of 3.5 hours at magistrates courts or youth courts and 5.8 hours at a Crown court, despite the victims code committing to ensure that victims giving evidence

"do not have to wait more than two hours".

It is imperative that all victims under the age of 18 be recognised as eligible for special measures under section 16 of the Youth Justice and Criminal Evidence Act 1999, so that they are recognised by all relevant agencies as vulnerable and therefore receive their enhanced rights. We need to actively include children within the definition of a victim so that they can be afforded the appropriate support to which they are entitled, in a way that they can understand and access. Will the Minister explain whether he will take any additional steps, either in the guidance or separately from the proceedings of the Bill, to ensure that all child victims and witnesses can access their rights, particularly special measures?

3 pm

Edward Argar: Amendment 63 seeks to add wording to the definition of a victim to explicitly state that it includes children. I reassure the hon. Lady that children who are

"a victim of, or a witness to, criminal conduct"

are already covered by the definition of a victim under part 1 of the Bill, and included in the current victims code. The relevant provision of the Bill—clause 1(2)(a)—says

"where the person has seen, heard, or otherwise directly experienced the effects of, criminal conduct at the time the conduct occurred",

and that is not an age-specific or age-exclusive point; it is universally applicable.

The definition of a victim covers individuals, including children, who have suffered harm as a direct result of being subjected to a crime. It also covers persons, including children, who have suffered harm as a direct result of certain circumstances, including the death of a close family member as a direct result of criminal conduct, and being born from rape. The hon. Lady quite understandably

[Edward Argar]

made a number of broader points about the operation of the criminal justice system and the courts. I will confine my remarks to the amendments, but I note those points.

The Bill's definition of a victim has been amended, as the hon. Lady touched on, to align with the full definition of domestic abuse in part 1 of the Domestic Abuse Act 2021, which will also be set out under the new victims code. The purpose is to have clarity and proper read-across between different pieces of legislation. The Bill therefore defines child victims who witness or experience the effects of domestic abuse as victims in their own right.

Individuals—again, including children—who witness a crime are covered by the Bill. We have described that as seeing, hearing or otherwise directly experiencing the effect of a crime at the "time the conduct occurred", which ensures that we do not exclude individuals who have been harmed by witnessing a crime even if they were not physically present when it occurred. For example, they may have seen it occur online as it was happening if it was being streamed or similar.

We recognise that individuals will be affected differently after witnessing a crime. That is why we have specified that an individual will be defined as a victim only if they have suffered harm as a direct result of witnessing criminal conduct. In that context, amendment 63 is unnecessary as children are already covered by the definition in the Bill, which, as I said, also aligns with the DA Act 2021.

Amendment 42 would require the victims code to contain specific provision for children who are victims or witnesses. Again, I reassure the hon. Lady that the definitions in both the Bill and the victims code include adults and children alike. Children are also explicitly recognised in the current victims code as vulnerable victims. Some of her points—for example, on how a court case is run and the length of time given for evidence—will, to a degree, be down to the way a judge runs that particular case with judicial independence and discretion. However, that explicit recognition in the victims code means that children have entitlements and "enhanced rights", such as getting information about key decisions more quickly.

That recognition is set out in the enhanced rights section of the code, which specifies that victims are "eligible for enhanced rights" if they are

"under 18 years of age at the time of the offence".

Young people are automatically eligible for the special measures included in the Youth Justice and Criminal Evidence Act 1999, which the hon. Lady mentioned, when they are giving evidence. Such measures can include communication assistance through a registered intermediary, giving evidence by live link or having their evidence pre-recorded, subject to the agreement of the court or the judge.

I fully support the aim of making the victims code as clear as possible about the different and distinct needs of children. The hon. Lady is aware that we will be consulting on a new victims code after this Bill gains Royal Assent, and we have published a draft to inform the debate prior to that formal consultation. This is one of the areas that we will be focusing on in reviewing and updating that code.

Sarah Champion: The Minister is right to say that the special measures are subject to a judge's discretion. I wonder whether, when he is looking at updating the guidance and the code, he could look quite closely into that, because of the example in Rotherham, where we have the ongoing past cases of grooming gangs. We are finding that the National Crime Agency tries to go for one judge, who is very aware of the need for special measures and very supportive of that. The concern is that, across the country, other judges are more subjective with regard to whether they think special measures are an automatic right and what the threshold is. Therefore, when the Minister is doing his review, will he look specifically at the guidance to judges about whether to allow special measures?

Edward Argar: I hope that the hon. Lady will forgive me if I resist the temptation to stray into areas that are properly judicial—related to judicial independence and, indeed, training and the Judicial College. I am very cautious about trespassing on judicial independence. She has made her point on the record, but as a Minister I have to be a little cautious in that respect.

The Children's Commissioner, Dame Rachel de Souza, when she gave evidence to the Committee last week, welcomed the fact that work with her office had already begun. We are looking forward to working with her and others—including, indeed, in this House—as we prepare a further draft code for consultation. Given that the current code already includes provision for child victims and witnesses and that we have made a commitment to make that clearer in the new code, and given the definition in clause 1(2)(a), I hope that I will persuade the hon. Lady not to press her amendment to a Division at this point.

Sarah Champion: I thank the Minister for everything that he has said. I have comfort at this point, so I will not press the amendment. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Champion: I beg to move amendment 40, in clause 1, page 2, line 5, after "that" insert

"no report of the conduct has been made to a criminal justice body and that".

This amendment aims to ensure that a person could meet the definition of a victim without needing to make a report to a criminal justice body.

I am nearly done with my amendments—on this clause. *[Laughter.]* Sorry; but I will say up front that this is a straightforward probing amendment, which aims to ensure, in relation to determining whether a person is a victim for the purposes of this legislation, that the scope is expanded to include those who do not choose to report an offence to the criminal justice system. Clause 1 of the Bill has been substantially improved since the drafting. I am relieved that it states that

"in determining whether a person is a victim by virtue of any conduct, it is immaterial that no person has been charged with or convicted of an offence in respect of the conduct".

However, I am keen for the Minister to clarify that this also does not require the victim to report the crime to a criminal justice body.

Janet Daby: I want to refer again to the Domestic Abuse Commissioner, who said in her evidence to us:

"You are absolutely right: most victims do not report to the police. The reality is that it is probably one in six."—[*Official Report, Victims and Prisoners Public Bill Committee,* 20 June 2023; c. 7, Q4.]

I just want to emphasise that point: many victims do not report to the police. Of course, there is a question following that, as to whether a prosecution takes place.

Sarah Champion: My hon. Friend is absolutely right, as is the Domestic Abuse Commissioner. That is why it is imperative that all victims and witnesses, particularly children, can access support through this legislation without needing to engage with the criminal justice process.

I have worked with the NSPCC on this amendment, as it raised concerns due to the fact that the majority of crimes against children and young people are not reported to the police. It can be extremely difficult for victims and survivors to speak about their experiences of child sexual abuse, as revisiting traumatic childhood experiences often causes significant distress. Prior experiences of being silenced, blamed or not taken seriously by the justice system can discourage victims and survivors from disclosing child sexual abuse again.

The independent inquiry into child sexual abuse found that child sexual abuse is dramatically under-reported. The 2018-19 crime survey for England and Wales estimated that 76% of adults who had experienced rape or assault by penetration did not tell anyone about their experience at the time. A large number of the inquiry's investigation reports noted that the true scale of offending was likely to be far higher than the available data appears to suggest. The Government's own "Tackling Child Sexual Abuse Strategy 2021" noted that:

"People were even less likely to tell the police—only an estimated 7% of victims and survivors informed the police at the time of the offence and only 18% told the police at any point."

Can the Minister guarantee, on the record, that the definition of victim includes those who choose not to report to the criminal justice system? The majority of victims, who choose not to report an offence, must still be able to access support under the Bill.

Edward Argar: I am grateful to the hon. Lady for the amendment, which she has clarified is a probing amendment; she is seeking clarity from the Box, as it were, that someone can come within the definition of a victim in the Bill without needing to report the relevant crime. Let me reassure her at the outset that that is already the case in the Bill's existing definition.

Victims of crime are considered victims under part 1 of the Bill, whether or not the offence has been reported to the police or any other criminal justice body. This is a fundamental part of the Bill, because we want to make it clear that victims of crime are able to access support services, regardless of whether they have reported a crime.

The point is covered by clause 1(4)(b), which sets out that,

"criminal conduct" means conduct which constitutes an offence (but in determining whether a person is a victim by virtue of any conduct, it is immaterial that no person has been charged with or convicted of an offence in respect of the conduct)."

I am happy to clarify and build on that for the hon. Lady: reporting or conviction is not required to meet the threshold. That echoes the current victims code and approach, which is clear that relevant entitlements are available,

"regardless of whether anyone has been charged, convicted of a criminal offence and regardless of whether you decide to report the crime to the police or you do not wish to cooperate with the investigation."

In the new draft code that we have published, that point is further highlighted in the opening section on who is a victim under the code, which explicitly sets out:

"The term 'criminal conduct' reflects the fact that you do not need to have reported the crime to the police to be considered a victim of crime. Some of the Rights under this Code apply to you regardless of your engagement with the criminal justice system."

The reason it is worded that way is because some of the rights are clearly worded as only to be directly relevant if someone is in the criminal justice process. It is explicit there that the code would apply to the individuals that the hon. Lady seeks to ensure are encompassed in this context.

I appreciate that the amendment seeks to make the fact that reporting is not required as clear as possible. Our view is that the amendment is not necessary because of the current drafting of the Bill and the wording of the revised victims code.

Noting the hon. Lady's words that this is a probing amendment, I hope she will not feel the need to press it further.

Sarah Champion: I thank the Minister for that clarity. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

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

Anna McMorrin: I want to put on the record my thanks to the Clerks here, but also to Claire Waxman and Dame Vera Baird, who have steadfastly demonstrated their commitment to championing victims' rights.

Dame Vera's commitment has not wavered, even though she left her role as Victims' Commissioner last September. Victims and advocates have continued to step up and make their voices heard, even when the Government have delayed the promised Bill time and again—we have been waiting eight years for it. Many victims, advocates and groups have continued to campaign and champion the issues. I particularly commend Claire Waxman, who has been pushing for this Bill for 10 years. Without those people, we would not be where we are today—at long last sitting here and scrutinising the Bill, line by line.

3.15 pm

I also wanted to put on the record my disappointment that the Victims' Commissioner role is not yet filled; victims have now not had a commissioner for nine months. It is particularly important as we begin debating the Bill line by line that that is put on the record. I hope that the Minister will update the Committee on the Department's efforts to fill the role, because the delay has led to a lack of scrutiny of the Government, particularly in this area and in the months leading up to the Bill.

We know that the Bill is absolutely necessary. Victims have been let down and excluded—lost in the justice process—for far too long. When victims have responded to Victims' Commissioners surveys, on the whole they have said that they have been left behind. That experience was documented by the last Victims' Commissioner, but it is also what victims constantly tell me as the shadow Minister with responsibility for victims.

The Chair: This is very general; we are debating clause 1.

Anna McMorrin: Yes, that is what I am looking at right now. I wanted to make a couple of general points, because we are beginning the line-by-line scrutiny of the Bill, if you will just allow me to do so, Sir Edward; you are being very generous—thank you.

We can only do this by working together. I turn to the amendments that we have discussed today—the critical ones tabled by my hon. Friend the Member for Rotherham, who is a steadfast champion for the rights of those who have been abused and for the rights of children. I commend her for that work. The amendments we have discussed seek to strengthen clause 1 on the definition of a victim, and they particularly consider antisocial behaviour and child criminal exploitation.

My hon. Friend the Member for Birmingham, Yardley, when speaking to her amendment 54, made some emotive points on death by suicide and the impact on family members.

I hope that we can work together as we move forward in our consideration of the Bill, so that amendments, including those to clause 1, are discussed and debated, and so that we can amend the Bill later down the line, and so that victims' rights, particularly the rights of child victims, are clearly defined in the Bill and that we strengthen the Bill as a result.

Edward Argar: I am grateful to right hon. and hon. Members for their points. It is important and right that we have taken a considerable amount of time to consider this clause on the definition of a victim, which of course is central—quite understandably—to what this Bill is about. It is a piece of legislation that I am pleased to be taking through Committee. If it does not harm my prospects with the Whips to say so, I will say that when I first entered this House in 2015 I took a close interest in working on this issue, alongside the right hon. and learned Member for Holborn and St Pancras (Keir Starmer), having both been elected at the same time.

The hon. Member for Cardiff North mentioned the role of Victims' Commissioner, which, as she will appreciate, is an extremely important post. We have seen a number of changes of Lord Chancellor in recent years. As she would expect, the new Lord Chancellor takes a very close interest in the position and is determined to make sure that he gets things right, gets the right person and that the process is properly followed. I know that he is as keen as she is to see the post filled, but filled properly.

Anna McMorrin: I appreciate the Minister's answer. Could he come back to the Committee with a timetable for the appointment?

Edward Argar: It is probably premature to offer a prescriptive timetable, but I know that it is very much on the Lord Chancellor's mind and that he recognises the importance of the role.

I am grateful for the debate on clause 1 and the various amendments. It is clear that we all agree on the importance of the clause. As I have alluded to, I am happy to work across the House where possible to see whether there are ways that we can address the points that have been raised.

Our intention in clause 1 is to define "victim" for the purposes of the relevant clauses in part 1 of the Bill, so that it is clear who is covered and entitled to benefit from the measures. If I may put it this way, we have sought to be more permissive and less prescriptive to avoid inadvertently excluding particular groups. In resisting some of the amendments, we have tried to avoid an approach that is duplicative. We do not need to put something in the Bill if there are other ways that we can achieve the same objective.

The clause focuses on victims of crime, which is relevant to the Bill's measures designed to improve support services for victims, regardless of whether they report the crime, and to improve compliance with the victims code. I am grateful for the constructive engagement on the clause. I believe that the definition as drafted is a good definition, but there are certain points that I will take away and reflect on further.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Sarah Champion: On a point of order, Sir Edward. Amendments 44 and 49 have been grouped together, but they have little to nothing to do with each other. Is there any way to separate them, or am I stuck with that group?

The Chair: You can ungroup them, if you want.

Sarah Champion: Please can I ungroup them?

The Chair: Well, I can ungroup them. We will deal with them separately.

Clause 2

The victims' code

Sarah Champion: I beg to move amendment 44, in clause 2, page 2, line 18, leave out paragraph (a) and insert—

> "(a) should be provided with information from all state agencies with responsibilities under the victims' code, including the NHS, to help them understand the criminal justice process and beyond, including grant of leave or discharge."

This amendment would extend the principle that victims should be given information about the criminal justice process to explicitly include the NHS, in order to bring mental health tribunal decisions in line with the rest of the criminal justice system.

I tabled amendment 44—and amendment 45, which we will come to later—because victims of serious crime committed by mentally disordered offenders currently do not get the same rights and entitlements as victims of offenders who are not mentally disordered. I apologise for the clunky terminology. Amendment 44 is vital, as critical information is often withheld from victims when the offender is mentally disordered.

In diminished responsibility cases, the psychiatric evidence is often considered and agreed in private by the Crown Prosecution Service without any meaningful disclosure to the victims. In those cases, there is often no trial, just a brief sentencing hearing where the evidence is not examined or tested in open court, which leaves victims completely in the dark. Often, offenders in such cases will have been patients of local NHS mental health trusts, which will have conducted their own investigations into the care and treatment of the offender. Many of those investigations are not shared with the families as they should be, with NHS trusts often ignoring official national NHS guidance without sanction. NHS trusts seem unaware of their responsibilities and duties to victims under the victims code.

I am speaking about the issue from personal experience. I have worked with the brilliant charity Hundred Families on this amendment, as well as amendment 45, because it has been supporting a bereaved family in my constituency that has been affected by this type of case. In February 2022, my constituent's son, Paul Reed, was murdered on a ward in Rotherham Hospital by a fellow patient. Although there is clear NHS guidance requiring the trusts to investigate serious incidents, the hospital did not even consider Paul's murder a serious incident. Initially, the hospital claimed that it had done a full investigation but would not share it with the family; then it turned out that it had not done an investigation at all. It required many letters, and finally my direct involvement, to get it to start a proper investigation.

That case, like others, shows that the Bill needs specifically to include the NHS to get it to take its duties to victims seriously. This is, sadly, a widespread issue; I know that Committee members have direct experience of it with their constituents. There are around 100 to 120 mental health-related homicides in the UK each year. In December 2022, there were 4,580 restricted patients —mentally disordered offenders who have committed serious crimes and are considered dangerous—in psychiatric hospitals in England and Wales. Around 2,979 restricted patients are discharged every year, although 268 were recalled to hospital according to the latest figures from 2020.

There is a very high rate of reoffending by such patients on their release. A recent long-term academic study found that 44% of offenders discharged from a medium-secure psychiatric unit were reconvicted following release, mostly for assault. Nearly 30% were convicted of a grave offence such as robbery, arson, wounding, attempted murder or rape. Another study of patients released from high-secure psychiatric wards found that 38% were reconvicted, 26% of them for serious offences. These are very sensitive cases that may raise broader concerns about processes, but victims and families deserve access to information, just as they would if the case went through the criminal justice system.

The amendment would ensure that the NHS is explicitly included among agencies that have a duty to inform victims of decisions made about an offender. I genuinely cannot understand why that is not happening now, and I really hope that the Minister will address that serious oversight. These families have already experienced immense grief and shock. They must be able to remain informed about the case, just as they would if the offender did not have any mental health issues.

Maria Eagle: I rise briefly to support my hon. Friend's amendment. She has touched on an important point: the difference in treatment between offenders who end up in jail and those who end up in some form of secure hospital or mental health unit. That is something that struck me when I was a Minister at the MOJ, in what now seems like the dim and distant past—in fact, it is.

The main reason for the difference is that the offender in the mental health hospital or secure unit is treated by clinicians, who have that person's clinical recovery at the core of what they do. They are very much focused on that and not so much on the broader issues of public safety, as would be the case in the criminal justice system, in the prison and at the Parole Board. I am not saying that clinicians do not consider those issues at all; I am saying that the focus is different.

Therein lies one of the reasons for the difference that my hon. Friend's amendment highlights: the focus is on getting the individual who is in mental health provision up on their feet and back out operating in society, rather than on the broader public safety issues that may arise from that person's being back out and about. Putting such an obligation on health service organisations is the kind of prompt that would make clinicians—and treating clinicians in particular—think a little more about the broader issues, instead of focusing entirely on the recovery of their patient.

One can understand why a clinician focuses on the recovery of their patient. I am not criticising that, but often there is not the overview of the broader public safety implication of any decision. I hope that the Minister, with his very open mind, which he has already demonstrated today, will consider that there is an issue here, and that there has been for many years. Depending on the kind of offence, it is easy to end up in either mental health provision or jail; some offenders could end up in either, yet the way they are treated can be very different, as can the reasons that decisions are made.

3.30 pm

The amendment, which would put an obligation on health service organisations to consider the victims code, would at the very least prompt them to realise that they have an obligation to the victims of the person they are treating. It is not just about the person they are treating; it is about the victims of that person and the way the individual behaved when they were mentally disordered—a phrase that I hate, but we know what it means.

I hope that the Minister can find a way of considering this issue and perhaps of making sure that there is some prompt for NHS organisations, which, given their clinical view, do not think as broadly as they ought to about the victims of the people they are seeking to get back into society, although one completely understands that. I think this would be a useful amendment for the Minister to accept.

Edward Argar: I am grateful to the hon. Member for Rotherham for tabling the amendment and airing this issue. The amendment seeks to ensure that victims are given

"information from all state agencies with responsibilities under the victims' code, including the NHS, to help them understand the criminal justice process and beyond, including grant of leave or discharge."

I recognise the importance of ensuring that victims receive the information they need to help them understand the process, including when the release—temporary or otherwise—of offenders detained outside the prison system is being considered.

The hon. Member for Rotherham drew attention to cases where an offender was subject to a hospital order. As the right hon. Member for Garston and Halewood highlighted, such offenders are subject to a different process from offenders in the prison estate. They are viewed through the prism of health as opposed to criminal justice, and decisions about their detention under the Mental Health Act are taken by the mental health tribunal or the Secretary of State for Justice, rather than by the Parole Board. However, I want to reassure hon. and right hon. Members that communication with victims about those processes is handled in the same way, through the HMPPS victim contact scheme.

[Edward Argar]

Under the scheme, the victim liaison officer will share information about the process for considering release and will notify victims when the patient is having their detention reviewed. The victim liaison officer will also support victims and make representations to decision makers on conditions of discharge in appropriate cases. The victim liaison officer is best placed to communicate with and support victims in such circumstances, as they will be expert in the process and have victims' interests at the centre of their work.

The victims code includes some information about the process and what victims can expect from those involved, under right 11, the right

"to be given information about the offender following a conviction."

I think it is right to keep the detail of who will deliver services, and how, in the code rather than in the Bill, in order to build in flexibility so that it can continue to be updated and to enable the inclusion of more operational details, such as those I have outlined. However, I take the point made by the right hon. Member for Garston and Halewood and the hon. Member for Rotherham about how we get an organisation such as the NHS—I had the privilege being the Minister of State for Health for two and a half years—to engage with that in what is understandably a different context, because there is often a medical mindset rather than a criminal justice one. My plea to Members is that this is better considered in the context of the revised code, and that perhaps we can use that to better draw out victims' rights.

Sarah Champion: Could I push the Minister to say that he will consider this in the revision of the code? I hear everything that he says, but it relies on all the different parts working together, which simply is not the case.

Edward Argar: Notwithstanding any legislative reason or primary legislation that might limit our scope, I am quite happy to look at it in the context of the code. We have published a pre-draft to give colleagues and organisations the opportunity to engage with it and make suggestions before it goes to the formal consultation process, and so that it is available to members of the Committee during our deliberations. I encourage the hon. Lady to engage with that.

With that, I hope that I may encourage the hon. Lady to treat this as a probing amendment, rather than one she wishes to press to a Division.

Sarah Champion: I will indeed treat it as a probing amendment. I am given confidence by the Minister's words. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Anna McMorrin: I beg to move amendment 6, in clause 2, page 2, line 18, leave out "should" and insert "must".

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

Amendment 5, in clause 2, page 2, line 20, leave out "should" and insert "must".

Amendment 7, in clause 2, page 2, line 22, leave out "should" and insert "must".

Amendment 8, in clause 2, page 2, line 24, leave out "should" and insert "must".

Anna McMorrin: In his opening speech on Second Reading, the Justice Secretary stated that

"in order to deliver justice, victims must be treated not as mere spectators of the criminal justice system, but as core participants in it. That is the mission of this Government and of this Bill. It will boost victims' entitlements"

and

"make victims' voices heard".—[*Official Report*, 15 May 2023; Vol. 732, c. 583.]

On paper, it sounds like the Government are dedicated to putting victims first, yet they stumble at the first hurdle. Clause 2(3) states only that agencies should comply with the four overarching principles of the victims code, making those principles weak and open to interpretation.

Ellie Reeves: Does my hon. Friend agree that if the Bill is really going to serve victims, it is important that it sets out what must be done rather than what should be done? We all know that when the word "should" is used, it often simply does not happen, and that is not good enough.

Anna McMorrin: I thank my hon. Friend for making that point. That is at the core of why I would like the Government to agree to the amendment. The principles are at the core of the Bill and agencies must comply with them. If they do not, that will call into question the essence of this entire piece of legislation.

I understand from the Government's response to the Justice Committee's pre-legislative scrutiny report that they believe the wording cannot be "must"—I am probably predicting what the Minister will say—because agencies require flexibility. However, having spoken to various stakeholders, I have seen no example where such flexibility would be required or reason why we could not reflect it in the code, rather than by watering down victims' rights in the Bill.

As the Government's reasoning remains unclear, I hope the Minister might clear that up for us today. If the intention is to prevent civil litigation from victims, the Bill already achieves that. Victims deserve some form of accountability from criminal justice agencies, and weakening victims' rights by using the word "should" will result only in a Bill that fails to make a difference on the ground.

The victims code has been in place since 2006. Compliance with the code has always been low; even though the Government have reformed it four or five times, that has not driven better compliance. The Bill is an opportunity to improve that, but by stating that agencies only "should" comply, it absolutely fails to do so. I will repeat what London Victims' Commissioner Claire Waxman said during the evidence session. She said that

"delivering the code is a minimum level of service to victims. Even if agencies are complying and delivering it, it is still a minimum level."—[*Official Report, Victims and Prisoners Public Bill Committee,* 20 June 2023; c. 29, Q67.]

As shadow victims Minister, I speak to survivors every day. Their harrowing truths and inspiring bravery helps shape what we do in this place, and I thank every single one of them for sharing their truth with me. I want to pay tribute to one of them, Sophie, who spoke to me. She was raped when she was just 19 years old. After Sophie reported the rape to the police, she was brought in to be interviewed, after which months went by with little contact or communication about her case

and what was going to happen. She was not told of her entitlement to an independent sexual violence adviser for eight months after speaking to the police and had to wait two years for her day in court after it was pushed back several times. Sophie was told by the detective on her case that it would help her to give evidence in person in court, which she did, even though she was absolutely petrified and the thought of it retraumatised her. She desperately did not want to.

Her Crown Prosecution Service barrister looked at Sophie's case for only 30 minutes before the trial. He had no communication with her before that—not even a conversation before the trial began. Sophie told me that she felt like a tick-box exercise for the CPS to just get its stats up and get the case into court.

During the trial, Sophie was put behind a screen to protect her from seeing the perpetrator—a little screen that goes up, knowing that the perpetrator is there—but the defence barrister persisted and used a horrific scare tactic to throw Sophie off. He asked her to open a booklet that was in front of her. She opened it to page 1 and in front of her was the image of the man who was the perpetrator. Her own barrister did absolutely nothing to stop that. That not only had a very real mental health impact there and then—she suffered a panic attack and anxiety and had to leave the courtroom—but she could not gather herself afterwards because it had retraumatised her. She said to me that she thought she was going to vomit there and then in the court, and nobody did anything to stop her. The witness assistant, who was of course trying her best, said, "Pull yourself together, Sophie. You need to go back in there and do this."

Sophie told me that because of the technique used she was unable to remember any of the important details of the incident, and we know what trauma does: people cannot recall really important incidents and detail. The intense stress and anxiety she was experiencing meant that she just could not remember. She believes that that led to the not guilty verdict.

After waiting a torturous two years for justice, Sophie was retraumatised and her attacker walked free. Although I agree with the four overarching principles, I do not agree that they are a step in the right direction for victims. We must make sure that the Bill is fit for purpose and that agencies have a duty on them. That is why the amendments and changing "should" to "must" are essential.

Edward Argar: I am grateful to the shadow Minister for the amendments and the opportunity to debate them, and for her articulating her rationale for them so clearly. I hope you will allow me to address all four together, Sir Edward, as they each seek to ensure that the victims code is required to make provision for services for victims that reflect the overarching code of principles in the Bill—as the hon. Lady has said, replacing "should" with "must".

I want to explain the reasons behind the approach we have taken. The principles provide a legislative framework for the code, which ensures that the code captures the core issues that we know victims are most concerned about—the right information, the right support, the opportunity to have their views heard and the ability to challenge decisions that affect them.

I reassure the Committee that the detailed entitlements for victims are set out in the victims code. As it is a statutory code of practice, there is already a clear expectation that agencies will deliver the entitlements that it sets out, and agencies are required to justify any departure from it if challenged by victims or the courts. The hon. Lady gave the example of particular cases. There will be many others. Without straying into decisions made by judges in those cases, she illustrated through that example why the principles matter.

3.45 pm

We believe that keeping the entitlements, and how they apply in different circumstances, in the code—outside primary legislation—is the most appropriate and flexible model. The hon. Lady, like her right hon. Friend the Member for Garston and Halewood, appears to have had a good look at my folder at some point—either that or the right hon. Lady is telepathic in terms of anticipating what I will say. Our approach allows us to make changes to strengthen the entitlements set out in the code without having to go through the process of amending primary legislation. It allows appropriate operational discretion to take account of victims' individual circumstances.

Ultimately, we all want the victims code entitlements to be delivered to victims. As the hon. Member for Cardiff North said, that is not always happening in the right way at the moment. Indeed, that has been the case over many years. Driving improvements in that is a core part of what the Bill is intended to achieve. I suspect we may disagree on the best mechanism to drive that improvement. The hon. Lady said that she wants defined rights to make the code enforceable, and to provide accountability when it is not upheld, which I suspect is what lies behind the four amendments. It is not clear, however, that putting entitlements in the Bill rather than the code would lead to improvements for victims. Our approach elsewhere in the Bill, as the Committee will know, is to ensure that non-compliance is addressed, and that it is easier for victims to escalate complaints when things go wrong.

Jess Phillips: Does the Minister agree that if this was written into primary legislation and it did not happen, a victim who sought to challenge that would have a case in law to do so, and would not otherwise?

Edward Argar: I will turn to non-compliance and why we believe that the approach that we have set out in the clause is the right one. I suspect that Opposition Members may take a different view, but after making a little progress, I will hopefully address some of their points—whether or not to their satisfaction.

Maria Eagle: Will the Minister give way again, before he goes on? I am not seeking to try his patience.

Edward Argar: I cannot say no to the right hon. Lady.

Maria Eagle: Dame Vera Baird, the former Victims' Commissioner, said in evidence:

"There is a statistic—from 2020, I think—that 70% of people who have been through the criminal justice system as victims have never heard of the victims code. We used Office for National Statistics data in 2021 and showed that 80% of victims who had

[Maria Eagle]

gone through the entire criminal justice system had never heard of the victims code. The first code was in 2006, so it has been completely ignored for 18 years."—[*Official Report, Victims and Prisoners Public Bill Committee,* 20 June 2023; c. 29, Q66.]

How will the Minister's wording tackle that better than beefing up the language in the Bill would?

Edward Argar: I am grateful to the right hon. Lady, but there is a slight difference between her two points. That survey refers to the number of victims who were not aware of the code; that does not necessarily mean that their rights were not available to them, or even that they were not given to them. They may not have seen it through the prism of the victims code, but they may have been kept informed. She is right to highlight that under Governments of all political complexions there is more to do in driving this, but the key point that that evidence points to is the importance of raising awareness of the code, ensuring that people know it exists and understand what it can do for them. As we progress through the other clauses, I suspect that we will touch on how we can do more on that. Raising awareness of the code's existence and what is in it is the crucial first step to empowering people to request, push for and demand their rights under it.

Rob Butler (Aylesbury) (Con): In terms of raising awareness, does my right hon. Friend agree that the language used in any explanatory materials needs to be crystal clear, and tested for comprehension by people of all levels of ability and understanding? We know that many people in prison who come up against the criminal justice system from that side have very low reading ages. It is really important, because some offenders are also the victims of crime, that what we put into legislation with every good intention is clearly understood.

Edward Argar: My hon. Friend is absolutely right. That is one of the reasons, but not the only reason—I suspect we may touch on this when we come to amendment 49—why our approach is to place a greater reliance on the victims code, because the nature of legislation is that there is often a requirement for it to be phrased in a certain way with particular language for good legal and drafting reasons. With a statutory code such as the victims code, there is greater flexibility to ensure that it can do what it aims to do, which is to make it accessible. As I said, I suspect we may touch on this when we discuss amendment 49 from the hon. Member for Rotherham.

On addressing non-compliance, the Bill places a new duty on criminal justice bodies to collect and share code compliance information with police and crime commissioners, who in turn are under a new duty to share information with the Secretary of State. We also intend for information to be shared within national oversight structures, and there is a duty on the Secretary of State to publish information, which will allow the public to assess, through greater transparency, the compliance of public bodies with the code. Where issues are identified by police and crime commissioners or others, operational agencies can take action to address them and enforce standards. Should local solutions fail, senior figures in the criminal justice system will provide national oversight to drive improvements at a system level. Ministers already have powers to intervene where systemic failures occur, such as the ability to direct inspections or direct measures to remedy failures.

When things go wrong, victims can make a complaint. The Bill will simplify the process for victims of crime to escalate complaints. It does that by removing the need to raise a compliant through an MP before it can be made to the Parliamentary and Health Service Ombudsman. Instead, it allows victims to make a complaint directly or through a nominated representative. I know that Members of this House are always diligent in considering PHSO requests and forms from members of the public and their constituents—we look at them, we review them and we sign and submit them where appropriate—but we believe that this simplifies the process in these circumstances and provides for direct access. The PHSO will investigate complaints and can recommend that an organisation issues an apology, provides a financial remedy or takes action to resolve the complaint to prevent the same thing from happening again. Crucially, it can follow up on whether action has been taken and report to Parliament where an organisation has failed, not only providing a remedy for individuals but being a driving force for improvements for victims.

In summary, our view is that the Bill provides an appropriate legal framework for the victims code that sends a clear message on the principles that are important for victims, alongside new monitoring and oversight measures to drive up compliance with the code. I hope that the shadow Minister will not press her amendments to a Division, but I will wait and see.

Anna McMorrin: I thank the Minister for his response. As I predicted in my outline—I must admit, I am not psychic, but I do read the Minister's responses to the Justice Committee and in pre-legislative scrutiny—I am disappointed that the view has not changed, because when speaking to agencies and victims, that is what they all tell me is needed to provide the support that victims so desperately need. I outlined that in the emotive response from Sophie, who spoke to me about her awful experience, but we know that that is just one experience. These experiences happen time and again across the country, and I am sure that because all of us here have an interest in victims and the justice system, we will all have heard similar cases.

I am disappointed that the Minister has not understood that and is not seeking to change "should" to "must". As we heard clearly in the evidence sessions, and as my right hon. Friend the Member for Garston and Halewood mentioned in regard to the former Victims' Commissioner, who talked about the need for this to be outlined, criminal justice agencies do not know that the code even exists. Changing "should" to "must" would be a vital way of ensuring that this is on the face of the Bill. Victims deserve some sort of accountability from these agencies, and the weakening of their rights through using only the word "should" will not make a difference on the ground. I hope that we are trying to work together today to make that difference for victims on the ground. The victims code has been in place since 2006, but as has been outlined today and in statements from our witnesses, it is not being used. It is therefore not making a tangible difference to victims' experiences and the criminal justice agencies are not using it to its full potential.

I will not press the amendment to a vote now, but may bring it back at a later stage. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Champion: I beg to move amendment 49, in clause 2, page 2, line 19, at end insert

"in a language or format that they can understand;".

As the Minister predicted, this amendment dovetails nicely into his remarks. The prominence of right to understand and be understood in the code is genuinely welcome and has the potential to significantly improve the experiences of victims who speak English as a second or additional language—EAL. However, for these basic rights to be upheld and to make meaningful change, they must be enforceable. It is therefore vital that they are enshrined in more detail in primary legislation. In particular, the entitlements underpinning the right to understand and be understood must be enshrined more directly in the Bill.

Failing to address and respond to communication barriers could risk the police having incomplete information and evidence from victims due to a lack of support to ensure that they are understood. SignHealth has highlighted a case where a deaf victim did not want their family to be involved and requested to make her disclosure outside of the home. Instead of having the conversation at the station, the officer took a statement from a British Sign Language user in their car, using a pen, paper and gestures. She was left vulnerable and unable to fluently express herself. When she attended a meeting with the police, no support or interpretation services were provided. She was handed a "no further action" letter that provided no rationale. She had no understanding of what the letter meant and had to struggle to use Google Translate to understand the decision. Such examples highlight how failing to respond to communication barriers can also result in cases not being adequately investigated, and subsequently closed.

It is deeply concerning that statutory bodies are enabling perpetrators to exploit these vulnerabilities and to keep controlling victims while remaining unpunished themselves. Amendment 49 is essential to ensure that all victims can access information in a language or format they can understand. It is crucial that this is explicitly on the face of the Bill, because if a victim cannot understand the information provided, their rights have not been met.

Currently, spoken language is not recorded systematically within the criminal justice system. There is no accurate data available on the number of victims who speak EAL. There is also evidence that criminal justice practitioners often make do with alternative forms of support, such as the use of Google Translate, which victims report to be much less helpful than professional language support. The absence of interpretation provision has been linked to a number of adverse outcomes, ranging from inaccurate statements being taken to a negative effect on victims' wellbeing and trust in the police. This is not acting in the best interests of the victim and does not enable us to achieve justice, so I hope the Minister will focus on these issues.

Maria Eagle: I commend my hon. Friend the Member for Rotherham for tabling the amendment. It is very easy to forget about disabled people in our public services, and there is an obligation under the Equality Act 2010 to provide access to public services in a way that works for disabled people, which can often involve proper translations or formats. Given that disabled people are disproportionately victims of crime, it is particularly incumbent on us, when considering the victims code, to make sure that it is accessible to those who are likely to benefit from it or who could benefit from it. The more vulnerable a victim is, the more likely they are to benefit from proper access to the rights in the code and the support it provides. It would be an omission if we did not make it clear.

4 pm

In one of my many previous ministerial roles, I was Minister for Disabled People and took the Disability Discrimination Act 2005 through Parliament. That formed part of the Equality Act as we now know it. It was not a consolidation, as such, but much of the anti-discrimination legislation was brought together into the Equality Act. I sometimes think that we have not done enough since to make sure that people can benefit from the statutory rights they have, such as access to public services, and that reasonable adjustments are made so that they have that access. As a society, we have not translated that sufficiently well into practical reality.

My hon. Friend the Member for Rotherham highlighted an example, but there are many others that we could cite when it comes to the criminal justice system, especially in respect of victims. In my experience, the clearer it can be made that accessibility has to be done, rather than it being an added bonus if there is a bit of spare money in the pot, the better. We have to make it a fundamental part of implementation of the code, and we need to put it in the Bill that reasonable adjustments such as BSL interpretation must be made. Many learning disabled people use Makaton; why not provide that that method of communication would be a reasonable way to ensure that rights under the victims code are accessible to people with learning disabilities? They would feel more comfortable and could understand what was going on better.

Sarah Champion: There is also a common misunderstanding that deaf people will be able to understand information in written form, but English is not their first language—British Sign Language is—and we have now rightly recognised it as a language in its own right. They are being asked to read something in a second language that they may or may not be competent in.

Maria Eagle: Absolutely: prelingually deaf people in particular do not have English as a first language. British Sign Language is their first language and we cannot just assume that they will be able to read written English in the same way in which they could understand proper sign language interpretation. That is a misunderstanding and a lack of awareness on the part of those who provide services. If we do not make it clear that access has to be provided, with reasonable adjustments to ensure that deaf people can understand what is being said and can exercise their rights, we will not be doing a proper job.

It is all too easy to think about this as an added extra—that it would be good if we had enough money in the budget to translate the victims code into different

[Maria Eagle]

languages—but translating the code is an essential part of ensuring that it is implemented and usable by many victims. If we do not do this, we will not have the success that we all hope for from putting the principles underlying the code into legislation. We can have as much flexibility as we like by not putting the draft code into primary legislation, but we need to make sure it is accessible to those who need it. The amendment is important. It is not a nice added extra: it is an essential part of ensuring proper awareness and that the victims code is usable and benefits those who need it to access their rights and to be able to deal with the criminal justice system as victims.

Edward Argar: Amendment 49 would amend the first principle of the victims code, which says that victims should be provided with information to help them to understand the criminal justice process, to state that the code should be provided in a format or language required for a victim to understand.

The victims code includes an entitlement—indeed, it is the very first entitlement—for victims to be able to understand and to be understood. The right states:

"You have the Right to be given information in a way that is easy to understand and to be provided with help to be understood, including, where necessary, access to interpretation and translation services."

Not only is it implicit in that that the issues raised by the right hon. Member for Garston and Halewood and the hon. Member for Rotherham are addressed, but in the revised draft of the victims code that we have published, footnote 28 on page 15, which sets out right 1 in more detail, explicitly says that the right

"includes both spoken and non-spoken interpreting, for example if a victim is deaf or hard of hearing."

It is there in the code not only implicitly, but explicitly, particularly in respect of the circumstances alluded to by the right hon. Member for Garston and Halewood.

We appreciate that the criminal justice process is complex and on occasion can appear impenetrable. The code is absolutely clear in right 1, which is "To be able to understand and to be understood"—

Sarah Champion: Will the Minister give way?

Edward Argar: I will finish my sentence, then of course I will. The code is absolutely clear in right 1 that all providers are expected to consider any relevant personal characteristics that may affect a victim's ability to understand and be understood, and to communicate with victims in simple and accessible language—a point made by my hon. Friend the Member for Aylesbury in his intervention—to help them to understand what is happening.

Sarah Champion: I began my speech on the amendment by welcoming the new changes, but the fact of having it enforceable is the nub of the amendment. Is the Minister able to speak about that? I have the right to be treated with respect in this place, but it does not always happen.

Edward Argar: I appreciate the hon. Lady's point. I will just round off my point, then address her point specifically. Right 1 of the code is clear that victims who, for example, have difficulty understanding or speaking English—the right hon. Member for Garston and Halewood alluded to the fact that some people's first language will be not English but British Sign Language, so they would be encompassed in the wording—are entitled to use an interpreter when being interviewed by the police or giving evidence as a witness, and so on. It also sets out the circumstances in which victims are able to receive translations of documents or information and makes it clear that all translation or interpretation services must be offered to the victim free of charge. The approach we have adopted throughout, and continue to support, is that we set out in the Bill the overarching principles that are important to victims and underpin the victims code, but the operational detail of how they are delivered sits in the code itself.

To address the hon. Member for Rotherham's point, it is of course a statutory code, and we are strengthening that in the way we are approaching it in this legislation, but I appreciate her point. When she reviews the code, if she has suggestions about how right 1 on page 15 might be made more explicit—it is there, but she might argue that the footnote 28 at the bottom of page 15 could be made rather more prominent—I am happy to reflect on them and, equally and more broadly, any suggestions that she or other right hon. and hon. Members have on how the code might be made more accessible, including in its language, which goes to my hon. Friend the Member for Aylesbury's point in the debate on a previous group of amendments.

We are clear that given that the focus in the code is on the need to provide information in a way that is understood by those who need it, the amendment is unnecessary. We believe that the code is the right place for the right to be articulated, and on that basis I hope that the hon. Member for Rotherham will consider not pressing the amendment to a Division.

Sarah Champion: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: I have agreed to a further request to vary my grouping for debate. We will now debate amendment 45 separately, and then amendments 48 and 50, along with new clause 7.

Sarah Champion: I beg to move amendment 45, in clause 2, page 2, line 23, at end insert

"and with all state agencies with responsibilities under the victims' code, including HMCTS and the NHS when considering leave or discharge;".

Amendment 45 follows on from my amendment 44, which was about access to information for victims of mentally disordered offenders. Amendment 45 focuses more on release decisions. Victims need information beyond the arrest, prosecution and conviction of the offender: they also have a right to receive information about the offender's leave and discharge. In all other situations that right is a given, but we need to ensure that it also works in practice for victims of mentally disordered offenders.

Mentally disordered offenders who have committed serious crimes are typically granted leave or discharged by mental health tribunals, also known as first tier tribunals. Hundred Families, with which I worked on the amendment, says that there is no evidence of mental health tribunals taking victims' rights seriously—a bold statement. Victims are not considered to be interested

parties when the release of dangerous offenders is being considered. Mentally disordered offenders who have committed very serious crimes can apply for leave or discharge within six months of conviction and every year thereafter. Victims of such mentally ill offenders are granted only very limited rights to comment in the tribunal hearings, particularly in comparison with when parole boards consider the discharge of offenders who have committed serious violence.

At the parole board, victims can make a personal statement, attend the hearing, receive copies of any decisions and appeal the decision. At mental health tribunals, victims cannot make any personal statements. They are not allowed to attend the hearing, do not receive decisions and have no means of challenging any decision, because they are made in secret and not publicly disclosed. I draw the Minister's attention to his remarks about my amendment 44: what I have said brings them into dispute. I am interested to hear his thoughts about that.

Other jurisdictions—notably Scotland, but also Queensland, Australia—allow victims' participation at mental health tribunals without any known problems. Amendment 45 simply aims to bring these victims' rights in line with those of any victims participating in the parole process.

Edward Argar: As ever, I am grateful to the hon. Lady for her speech setting out the rationale for amendment 45. She seeks to give victims the opportunity to make their voices heard during particular types of proceedings. The amendment seeks explicitly to include the NHS and HMCTS within the victims code principle that victims should have the opportunity to have their views heard in the criminal justice process. It seeks to cover cases in which the full or temporary release of offenders detained outside the prison system under the Mental Health Act 2007 is being considered.

Eligible victims are able to provide their views on release conditions for offenders, but they are not able to explain to the decision makers in the mental health tribunal the impact that the crime had on them. We agree with the hon. Lady: we do not think that is right. Victims are able to give such explanations in the courts and the parole systems through a victim personal statement, and we believe that that should be the case regardless of where the offender is detained. That is why the Government have committed to making provision in the new victims code for victim personal statements to be submitted to mental health tribunals considering the release of an offender.

That commitment is reflected in the draft code that we have published. Right 7, the right to make a victim personal statement, includes draft text to show how that would apply to victims eligible for the victim contact scheme. We are working through the details with our partners, including the judiciary, to consider how we can appropriately achieve our aim in a way that recognises the particular sensitivities relating to the offender's health records and conditions in these settings.

We have committed to consult on an updated victims code after the passage of the Bill. As always, I am open to working with the hon. Lady on ensuring that the new provisions relating to mental health tribunals meet the needs of victims. We will keep her updated on the work we are doing. For reasons of flexibility, it is right to keep the detail of who will deliver the provision, and how, in the code itself rather than in the Bill, but I hope that I have reassured the hon. Lady that we share her view and that we are working to deliver on that, both through the code and with the judiciary.

Sarah Champion: Indeed, and I thank the Minister. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Champion: I beg to move amendment 48, in clause 2, page 2, line 23, at end insert ", including on parole decisions;".

This amendment seeks to clarify that the principle that victims should have the opportunity to make their views heard in the criminal justice process includes parole decisions.

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

Amendment 50, in clause 2, page 2, line 23, at end insert

"and should be provided with appropriate support to communicate these views;".

New clause 7—*Parole Board: victim engagement*—

"(1) It is the duty of the Parole Board to monitor and report on how they support victims to make their views heard in the criminal justice process.

(2) In discharging the duty under subsection (1), the Parole Board must report to the Secretary of State on their effectiveness in—

(a) engaging victims at all stages of the criminal justice process, including informing them of outcomes, and

(b) informing victims of their right to make a Victim Personal Statement.

(3) The Secretary of State must lay a copy of any reports received under this section before Parliament within 15 days of receiving them."

This new clause would require the Parole Board to monitor and report how they support victims to make their views heard in the criminal justice process.

4.15 pm

Sarah Champion: I tabled the amendments and new clause because I have had to deal in a short period of time with two constituency cases of pretty horrendous child sexual exploitation in which victims of extremely serious crimes were not notified when an offender was considered for transfer to open conditions until after a decision had been made and, in one case, after the decision had been implemented, which goes completely against the existing practice that is detailed in the code and should be enforced across all our justice systems. That happened despite the statutory duty on His Majesty's Prison and Probation Service to notify victims. Neither constituent had the opportunity to express a view on the transfer, to outline their concerns or to contribute in respect of the conditions of the release. Instead, in a bolt out of a blue, they were told, seemingly by accident, that their offender was out on the streets. It is hard to imagine the shock and terror that caused them.

When I raised the cases with the then Secretary of State for Justice, I was told that both incidents were the result of human error. The two incidents were markedly similar and affected people in a relatively small geographical area in an extremely short period of time, so I find it

[Sarah Champion]

very hard to believe that they were isolated and not, instead, a system failure. It is difficult to understand how such errors can be made if well-understood processes are in place, as we are expected to believe, and those processes are underpinned by statute. The changes in the amendments and new clause would strengthen the statutory underpinning, hopefully to thereby avoid similar incidents happening in future and ensure that such devastating mistakes could not happen again.

Amendment 48 would add "including on parole decisions" to clause 2(3)(c), which says that victims

"should have the opportunity to make their views heard in the criminal justice process".

That should already be happening but sadly is not, and victims are being left vulnerable, uninformed and without their rights being met.

New clause 7 would place a core responsibility on the Parole Board, as the statutory body, to ensure that the right of victims to make their views heard is fulfilled, by monitoring and reporting on how it supports victims to ensure that their views are heard.

Amendment 50 would, similarly to amendment 49, ensure that victims have the opportunity to make their views heard in the criminal justice process and that they should be provided with the appropriate support to communicate their views. The amendment is supported by, among others, the Bell Foundation, to which I am grateful for its support. The amendment is vital for the victims the foundation works with to ensure that they can be involved in parole decisions.

As I stated in my remarks about amendment 49, Google Translate is used too frequently and is not an effective tool for ensuring that victims can understand and be understood. An example from Rape Crisis refers to a victim of domestic abuse and sexual violence whose first language is not English. When she attended a meeting with the police, no support or interpreting service was provided. She was handed a "no further action" letter that provided no rationale and gave no understanding of what it was. She had to struggle to use Google Translate to understand the decisions that had been made. How is she supposed to communicate her views about a parole decision if she is unable even to understand the process?

All victims deserve the right to be involved in parole decisions, but we must first ensure that they can be understood when they give their views and that they also understand the process.

Edward Argar: Before I turn to amendment 48, let me address amendment 50, which would add to the victims code the principle that victims should be provided with appropriate support to make their views heard in the criminal justice process. It is right that victims are able to make their views heard, and I agree that they may need support to help to navigate the process effectively. That is why there is already support in place for them to do so, including support provided by organisations and services, such as independent sexual violence and independent domestic violence advisers, and other victim support services that can help explain and help victims navigate the justice system. A victim personal statement is key to the victim being heard in the criminal justice process. That allows victims to explain in their own words how a crime has affected them.

Under code right 7, "To make a Victim Personal Statement", the police are expected to provide victims with information about the victim personal statement process, so they can decide whether to make one. The College of Policing provides guidance for the police on what victims need to know about the process of making a victim personal statement. To help victims, the Ministry of Justice has published guidance called, "Making a Victim Personal Statement", which explains what it is, how it works and what the victim needs to do.

Support at court if the victim is due to read out their victim personal statement may include special measures, such as the use of a screen or live link, and support from the witness service can include accompanying the victim when they give evidence or read their victim personal statement. If giving a victim personal statement during the parole process, victims who are part of the victim contact scheme will have a victim liaison officer, who can help them write their statement and let them know how it will be used during a parole hearing. I hope that I have gone some way to satisfy the hon. Lady that support is already in place.

Sarah Champion: I will be quick because I know we have a vote coming. I agree that the instruments are in place, but the problem is that it relies on humans to actually let the victim know or the Parole Board to let the victim support know, and that is where it is breaking down.

Edward Argar: I hope I might address that to some extent as I turn now to amendment 48 and new clause 7, which relate to the role of victims in the parole system. Amendment 48 would add parole decisions to the principle in the victims' code that victims' views should be heard in the criminal justice process, and new clause 7 would place a duty on the Parole Board to monitor how it supports and enables victims to give their views to the Parole Board. It would be required to report that to the Secretary of State, who in turn would be required to publish it. It is vital that victims are informed of the parole process and are given every opportunity to engage with it so their voices are heard. The parole process can be distressing for victims, so it is crucial that they understand how the system works and receive support to effectively engage in the process.

We have made improvements to the way victims can receive information and participate in parole proceedings, including the introduction of decision summaries and public hearings. Parole hearings are part of the criminal justice process, which extends beyond the trial. That means the principle that victims should have the opportunity to make their views heard in the criminal justice process already includes relevant parole decisions, so the amendment is not necessary.

Right 11 in the victims code already sets out victims' entitlements to submit a victim personal statement as part of the parole process. Where the victim chooses to make a victim personal statement, the Parole Board Rules 2019 require that it is included in the dossier of written evidence submitted to the Parole Board by the Secretary of State. Right 11 of the code then requires the Parole Board to read the victim personal statement, if one has been made. We have committed to developing a process to allow victims the opportunity to make written submissions to the Parole Board in addition to

their victim personal statement. Information in the submissions could include their views on the offender's potential release and questions to the Parole Board. Provision for victim submissions will be included in the new victims' code.

It is vital that victims are supported during the process, that there is oversight to ensure they are being given the opportunity to have their voices heard and that they feel supported to do so. However, the proposed new clause seeks to put duties on the Parole Board in relation to support for victims. The reality is that the Parole Board does not liaise directly with victims. In practice, the responsibility for supporting victims through the parole process lies with probation service victim liaison officers, who sit within His Majesty's Prison and Probation Service. They are specially trained to work with and support victims through the parole system, including ensuring that they can submit a victim personal statement and be informed of the outcome of the review.

Under the current code, victims are entitled to be given information about the offender following a conviction and to be told about how to make a victim personal statement. That is delivered through the referral of eligible victims to the victim contact service, and they are then assigned a victim liaison officer. That means that compliance with those entitlements can be monitored and reported on via clauses 6 and 7. The clauses place a duty on HMPPS to collect and share information on the delivery of victims code entitlements and to jointly review this with police and crime commissioners, and on police and crime commissioners to report to the Secretary of State, who will publish relevant information.

On the basis that we can monitor this important information by different means, and that an updated victims code will include the information regarding representations to the Parole Board, I encourage the hon. Lady not to press her amendment to a Division at this time.

Sarah Champion: I thank the Minister for what he says, but it does not given me the reassurances that I want, because things are not working in practice. I will not press my amendment to a vote now, but I am minded that the new clauses will come at the end of our consideration. I may well press the matter then if he is unable to give those reassurances. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Elliot Colburn (Carshalton and Wallington) (Con): I beg to move amendment 26, in clause 2, page 2, line 25, at end insert—

> "(e) should be able to access and, where appropriate, be referred to restorative justice services;
>
> (f) should be able to access and, where appropriate, be referred to services and support that are tailored to their individual needs."

I am grateful to have been called to speak, Sir Edward, but I appreciate that my speech may not last for long before we are called somewhere else. My amendment relates to the inclusion of restorative justice in the victims code set out in clause 2. That was a recommendation that the Justice Committee made in its pre-legislative scrutiny of the Bill, but I have tabled the amendment as a Back-Bench MP and as chair of the all-party group on restorative justice.

To give a little background and context, I was inspired to do so because of a heartbreaking and harrowing story. I know that the Minister has heard it before, but I will repeat it for the benefit of the Committee. A lovely couple living in the London Borough of Sutton, Ray and Vi Donovan, suffered the most unimaginable tragedy when their son Christopher was murdered. *[Interruption.]*

4.27 pm

Sitting suspended for Divisions in the House.

4.54 pm

On resuming—

Elliot Colburn: I will resume by telling the story of Ray and Vi Donovan, a couple who live in the London Borough of Sutton. They went through the tragedy of losing their son, who was murdered several years ago.

A long time ago, Ray and Vi recited to me their experience of going through the criminal justice system. The police found the three boys who were responsible—they went to trial, were convicted and put behind bars. But Ray and Vi said that they never felt that they—as victims of the crime, and having lost their son in such tragic and gruesome circumstances—had had a voice at the trial. They did not have the opportunity to share their side of the story or explain how it had impacted them; it was all to do with the perpetrators.

Ray and Vi acknowledge that some time has passed since the trial; however, they have made it their life's goal to set up a restorative justice charity in Christopher's name and to work with wider restorative justice providers around the country to promote its use, where appropriate, and to improve access to it. That is the premise of the amendment. Studies show that only about 5% of victims are aware of restorative justice; it is often buried in a large pack or binder that victims of crime get handed.

I want to be clear about what I mean by restorative justice, because it often gets confused with the American version. The UK does it very differently. Restorative justice has no impact on sentencing, parole or anything like that; in the criminal justice space, restorative justice is the opportunity for a victim of crime, in appropriate circumstances, to meet the perpetrator. That allows them to ask questions. The most obvious question that victims of crime have is, "Why did this happen to me?" Restorative justice is designed to answer the important questions that victims often have, to which the court is often unable to provide answers.

Restorative justice is not meant to make a sentence more lenient, or to be something that a victim or perpetrator is forced to go through. Obviously, there will be circumstances where that would not be appropriate. Not every victim will feel like they want to take part, and it would not be appropriate for every victim. For example, in some cases a child would not be appropriate for restorative justice. Equally, there will be perpetrators who will not engage constructively—use the opportunity only to further traumatise their victim. The amendment is meant not to mandate the use or promotion of restorative justice, but simply to make it a right in the victims code that a victim of crime be made aware of the potential for restorative justice, and allowed to access it where necessary, after taking into consideration all the required safeguarding provisions.

[Elliot Colburn]

I hope that the Minister will say a little more about the work that his Department wants to do in the restorative justice space. I appreciate that he may not want to accept the amendment today; however, I would be grateful for some reassurance that the Bill will enable and empower victims who want to go through the process. I stress that RJ must always be victim led. It always has to come from the victim. I would welcome some reassurances from him on how the Bill could achieve that.

Rob Butler: My hon. Friend makes some important points about restorative justice. I have seen it work very effectively both in the courts and in the prison and youth justice systems. Does he agree that there are already some very successful examples of restorative justice, particularly in our prison, probation and youth offending services, and that quite a lot of work is already being done—including for children, who he said he would probably rule out of scope? In fact, restorative justice can be very effective for under-18s.

Elliot Colburn: I am grateful to my hon. Friend. I would certainly not agree with a blanket ban for children, but I appreciate that additional safeguarding concerns would need to be considered for young victims. I agree with him; I have seen this myself. I have been invited to witness such sessions happening in prisons, and some amazing work is going on. The results cannot be understated. Something like 80% to 90% of offenders will not go on to reoffend if they go through restorative justice, according to studies. I cannot remember the name of the university that conducted them, but I am happy to clarify it to the Minister later.

5 pm

Janet Daby: I thank the hon. Member for making such a great speech in favour of restorative justice; I am with him on that point. Restorative justice is effective in prisons, courts and education, but would he agree that if it is to have the necessary impact in prisons, it needs to be fully resourced?

Elliot Colburn: The APPG that I chair produced a report into the state of restorative justice in the UK, and looking at resourcing RJ was one of our nine recommendations. I ask the Minister to take a look at those recommendations again to see how we can better allow victims to access RJ when they feel that they want to and when it is appropriate.

I do not deny that excellent work is being done. I commend the practitioners and prisons engaging with the issue, but far too often I hear from victims who want to go through this process that they find it a struggle—or else victims have no idea that restorative justice exists. That is why enshrining it as a right in the victims code would help to raise awareness and ensure that victims can access it if they want to. I will bring my remarks to a close, but would be grateful to hear any reassuring remarks from the Minister.

Edward Argar: I pay tribute to my hon. Friend for the work that he and the all-party parliamentary group that he chairs do on this important issue. I am grateful to him for giving us an opportunity to debate restorative justice. He and I have spoken about it in the past; as I have highlighted, we are committed to the effective use of restorative justice in appropriate cases.

I am grateful to my hon. Friend for highlighting Ray and Vi Donovan's case and situation as an example of how restorative justice can work well. I know that when it is delivered in the right circumstances it can result in improved victim satisfaction and reduced reoffending, bringing benefits to victims, offenders and their communities.

We support local agencies providing restorative justice in the devolved model that came in a few years ago. We looked to police and crime commissioners to fund services locally, as they are best placed to assess local need. We are encouraging greater co-commissioning between police and crime commissioners and regional probation directors.

The second code principle in the Bill is already clear that victims

"should be able to access services which support them (including, where appropriate, specialist services)".

That covers all types of support services. We would consider it to include restorative justice services where appropriate.

The code also goes further. Right 4—to be provided with information when reporting a crime—is clear that victims are entitled to information from the police about restorative justice and how to access such services in their local area, and that all service providers will consider whether victims would benefit from this information at any stage of the criminal justice process. We are also using the Bill to create a duty for agencies to raise awareness of the code, including information about restorative justice, so that victims know what services they can, and should, receive.

I hope my hon. Friend will not press his amendment; he said that it is essentially a probing amendment. Specifying different types of support services in primary legislation might, we fear, inadvertently narrow the current broad coverage, but he raises some very important points.

First, we must be cautious of a general entitlement to access to restorative justice. That would not always be appropriate because offenders must voluntarily agree to participate, as my hon. Friend highlighted. To give him some hopefully positive news, I am open to considering alternative approaches that the Government can assist with to promote the effective use of restorative justice in appropriate cases. I read his report carefully and, as luck would have it, I have written to him—I think I signed it today—responding over four pages to his nine recommendations. In that letter to him, I offered to meet with him outwith this Committee to engage on these issues and see what more we can do to work together. Given that, I hope my hon. Friend will not press his amendment to a vote. I look forward to exploring the issue with him in more detail in that meeting, should he wish to take me up on it.

Elliot Colburn: I am grateful to the Minister. That is incredibly reassuring and I look forward to reading his response when it lands. On the basis of those reassurances, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sarah Champion: I beg to move amendment 38, in clause 2, page 2, line 25, at end insert—

'(e) should be able to access appropriate compensation.'

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

Amendment 39, in clause 2, page 2, line 25, at end insert—

'(3A) In accordance with subsection (3)(e), the victims' code must include provision requiring that—

(a) all victims of child sexual abuse, including online-based abuse, are entitled to compensation under the Criminal Injuries Compensation Scheme,

(b) victims with unspent convictions, whose offences are linked to the circumstances of their sexual abuse as a child, are entitled to compensation under the Criminal Injuries Compensation Scheme, and

(c) victims of child sexual abuse may apply for compensation under the Criminal Injuries Compensation Scheme within a 7 year period of whichever of these two dates is the later—

(i) the date the offence was reported to the police, or

(ii) if the offence was reported whilst the victim was a child, the date the victim turned 18.'

This amendment would provide that all victims of child sexual abuse (CSA), including online, are entitled to compensation under the CICS and that those with unspent convictions directly linked to the circumstances of their abuse can access compensation. It would also extend the period by which victims can apply.

Amendment 55, in clause 2, page 2, line 25, at end insert—

'(3A) In accordance with section 1(2)(b), the victims' code must include provision requiring that all children born of rape are entitled to compensation under the Criminal Injuries Compensation Scheme.'

Sarah Champion: I will speak to amendments 38 and 39, which are linked to the criminal injuries compensation scheme. Victims of violent crime in England and Wales may be awarded compensation under the publicly funded criminal injuries compensation scheme. I have campaigned extensively to reform that scheme and the Criminal Injuries Compensation Authority that administers it.

When I started supporting victims of child sexual exploitation in Rotherham, it soon became apparent that CICA was simply not fit for purpose. An agency that should have existed to support victims seemed instead to believe that its duty was to find any excuse possible not to make an award. Several constituents were affected by that. Indeed, many had claims rejected on one of the three grounds: first, that they were out of time; secondly, that they themselves had unspent criminal convictions; or, appallingly, thirdly, that they had somehow consented to their own abuse. That last reason was recognised to be deeply wrong and legally contradictory. I am pleased to say that it has now been removed, although not before it caused much harm.

The other two grounds remain in force and are particularly problematic for victims of child sexual exploitation, many of whom may take years to disclose their abuse. The trauma of doing so may further delay launching a claim. Furthermore, a well recognised and understood part of the grooming process is that abusers may involve victims in other criminal activities as a further form of coercive control, which is also seen as blackmail and, indeed, an insurance policy. It goes without saying that we should not be holding symptoms of abuse against victims when determining whether their suffering merits compensation.

Amendments 38 and 39 will ensure that all CSA victims, including online, are entitled to compensation under the CICS and that those with unspent convictions linked to the circumstances of their abuse can access support. The period by which victims can apply for compensation is also extended.

There is broader support for change in the scheme. The independent inquiry into child sexual abuse—IICSA—published its interim report in April 2018. That report, along with the "Accountability and Reparations Investigation Report" published in 2019, made several recommendations to improve access to the scheme for victims and survivors of child sexual abuse. Despite that, concerns about the scheme remain, in that its continued focus on crimes of violence fails to consider that child sexual abuse and particularly online sexual abuse may occur without physical contact.

Under the 2012 scheme, no award is made to applicants who have unspent convictions for offences that resulted in certain sentences or orders. That fails to recognise the impact of child sexual abuse and specifically that abuse may have directly contributed to instances of offending; there is often, for example, a close link between sexual exploitation, grooming and criminal behaviour. There is also a two-year time limit for making a claim. Even though that may be extended where there are exceptional circumstances, such a period is inadequate for victims and survivors of child sexual abuse, who often do not report their abuse until adulthood.

Victim Support strongly believes that the unspent conviction rule unfairly penalises some victims of violent crime, in particular the most vulnerable, such as the victims of child sexual abuse. It says that victims of child sexual abuse, sexual exploitation and grooming are often targeted by their abusers, in part because they are vulnerable, lack adequate support and supervision and may be perceived by offenders as easy to manipulate on those grounds. Such victims are often from challenging backgrounds and therefore, for various reasons, may be more likely to have criminal convictions prior to the abuse taking place. That should not be held against them.

Further, the fact of being abused in itself makes it more likely that a person will themselves go on to commit an offence, either as part of the abuse and under the coercion of the abuser, or in reaction to the abuse. It is now widely recognised that victims of crime have an increased likelihood of committing an offence. The relationship is particularly acute where the individual has suffered sexual abuse. Ministry of Justice data reveals that almost a third—30%—of prisoners experienced emotional, physical or sexual abuse as a child.

The 2008 criminal injuries compensation scheme, which the current scheme replaced in 2012, also set out that an award for compensation would be withheld or reduced to reflect unspent convictions, but it allowed for claims officers to use their discretion if they considered that there were exceptional reasons. That claims officers could use their discretion to decide on levels of reduction was also set out in the accompanying guidance for the

[Sarah Champion]

scheme, which makes it clear that claims should not be rejected where the convictions are related to their child sexual abuse.

The Government should reinstate the ability of claims officers to use their discretion in this area and remove completely the blanket ban on making any payments to the victims, which is set out in paragraph 3 of annex D to the guidance on the criminal injuries compensation scheme. Victim Support would also support changes to the criminal injuries compensation scheme time limits rule. Currently, claims made outside of the two-year limit can be considered by CICA in exceptional circumstances, but that does not provide enough clarity or certainty for victims and is therefore not fit for purpose. The policy disproportionately affects victims of sexual abuse, who are concerned that their claim may affect their ability to receive justice and that the fact they have made a claim will be used against them in court.

It is welcome that, as part of the review into criminal injuries compensation, the Government undertook a review of the exceptional circumstances clause and found that 63% of cases submitted outside the time limit still received a reward. However, that still shows that over a third of claims submitted outside of the time limit were denied.

Additionally, the Government's review does not consider the victims who did not submit a CICA claim because they believed they were too late to do so. The court backlogs also mean that victims concerned about applying to the CICS before the trial ends, who are already struggling to cope with the delays, will have the additional risk of being ineligible. I urge the Minister to listen to my constituents, victims, charities such as Victim Support, and the independent inquiry into child sexual abuse, and accept the changes.

Jess Phillips: I rise to speak to amendment 55, which I tabled to clarify that one of the groups that has now been included in the Bill—that is, children born of rape—will also be able to access the criminal injuries compensation scheme as victims of crime. Many brilliant people have been involved in the campaign to ensure that children born of rape are considered to be victims: Daisy, who has been involved with Daisy's law; the Centre for Women's Justice; and the very passionate campaigner and Rotherham sexual exploitation victim Sammy Woodhouse.

I want to read a letter that I received about this issue:

"Dear MP

I hope my email finds you well. I am the son of Sammy Woodhouse. I am aware you have publicly supported my mothers campaign, which I would like to thank you. I am writing you this letter with her help and support as I have never reached out to an MP before, I have done so as this is a campaign that is very close to me.

I wish to express how difficult it has been for me to learn that I was conceived by sexual violence and some of the challenges I have had to face. I want the government to take it seriously and to help others. Not only have I felt very alone but I have struggled with my Identity, my mother was raped by my 'father' and he is known as the UK's most notorious rapist, this alone faced its challenges and left me confused. Emotionally I have closed off and shut down and at times I've wanted to scream from the rooftops.

Despite me never being identified publicly, we were known within our community so therefore I was subjected to death threats, followed and had my picture taken, called 'rape baby' and told I would also become a rapist. We had to move home and schools and even then people came to our home and posted our address online. I've been targeted and lied about on social media, and professionals encouraged me to have a relationship with my father rather than safeguard me. This was all done by the people in our local community even when my mother remained anonymous. I was 12 years old. There are many like me."

5.15 pm

The lifelong trauma, heartbreak, isolation or anger described by those born of the crime of rape is hard to imagine. I welcome the Government's inclusion of them in the definition of victim—hard won by extraordinary campaigners and survivors—but have tabled amendment 55 to clarify the fact that those victims have the same rights as others.

In England and Wales, it is estimated that between 2,080 and 3,356 children could have been conceived of rape within a single year, from January to December 2021, and yet there is little evidence for or research into the true prevalence and impact. The Centre for Women's Justice commissioned an evidence review, which found that children born as a result of the crime of rape are at risk of suffering serious and long-term harm from birth and into later life. A study in 2014 found that nearly 85% of children born of rape were reported by their mothers to display unusual or concerning behaviours, which included stunted development, unexplained physical pain, aggressive behaviour or persistent feelings of sadness.

We only need to speak to victims to hear the truth. Sammy Woodhouse—many already know her story—was horrendously abused from the age of 14. She has a son born from that rape and for years has been a tireless campaigner for the forgotten voices. Not only has her campaigning led to their recognition, but she has led the fight for tangible rights, care and support for those children.

The documentary, "Out of the Shadows: Born from Rape", brought those stories to the fore. For example, Sammy met Mandy. Mandy was abused and raped by her father from the age of 11, or even younger, but she cannot remember before that. Through that violence, she became pregnant. Her abuser told her that she had to have the child, and that it would "call me Daddy too." After the birth, courageously, she packed nappies and baby milk, and left. Mandy's son was born with a severe genetic disability, and she is his carer. He needs support every day. Mandy made it clear that everything she had faced, she felt her son had faced too: "I am a survivor, he is a victim." Mandy's son was refused by the CICA.

Another campaigner born of rape Sammy worked with outlined his experiences:

"Finding this out at any age is challenging, however as an adopted person, finding this out at the age of 27 completely floored me. My whole sense of self and who I was just fell away. The best analogy I can use is it was like someone reaching inside me and ripping my insides out. I felt completely hollow, cut adrift, scared and alone. To make matters worse there was, and still is, no support available to people conceived through rape. As a result of having no support from any statutory body at the time, 5 years ago I broke down. I was diagnosed with depression and anxiety. Were it not for the amazing work of Share psychotherapy…in Sheffield that offers a pay as you can afford therapy, I have no doubt I would not be here today. I realise this may sound like hyperbole, however finding out you are a product of rape really does impact you in ways it is difficult for someone not in the same situation to appreciate."

If we are truly to address the burden such victims carry, we must ensure access to criminal injuries compensation for victims born of rape. The authority's website states:

"The Scheme is a government funded scheme designed to compensate victims of violent crime in Great Britain."

It also states that it "can consider claims" for:

"mental or physical injury following a crime of violence…sexual or physical abuse…loss of earnings…special expenses payments—these cover certain costs you may have incurred as a direct result of an incident."

It is hard to argue how victims born of the crime of rape would not fit under that.

CICA payments help victims to deal with the impact of the violence that they are a victim of, such as days lost from work due to mental health issues, or the cost of therapy or extra support. For some, such as Mandy's son, who suffers with a severe disability, the need is even greater.

It is only right that victims born of rape are given tangible, practical support to overcome the pain they have felt. We must support them and their extraordinary courage in building a life in the aftermath of violence. I urge the Government to adopt amendment 55.

Edward Argar: I turn first to amendment 38, which seeks to include victim compensation as an additional victims code principle, and I am grateful to the hon. Member for Rotherham for her explanation of it. I should put on the record at this point that I am aware of the hon. Lady's tireless work to support victims of crime, particularly victims of child sexual exploitation. She and I have worked on this issue in my previous incarnation in this role and I know that during my interlude in the Department for Health and Social Care—and, very briefly, in the Cabinet Office and the Treasury—she has continued relentlessly to pursue this cause. Now that I am back in the Ministry of Justice, it is nice that we can pick up some of the issues that we were discussing back in 2018 and 2019.

I agree with the sentiment behind the amendment. It is quite right that, in appropriate circumstances, victims should receive compensation for the harm that they have suffered as a result of a criminal offence. She made one point that was particularly interesting. When I have previously talked to staff at the Criminal Injuries Compensation Authority, I have found that their preference is for less discretion and more prescription, from the perspective that it makes their job easier because that is black and white—that is the decision—rather than there being any potential grey area that causes uncertainty for claimants and applicants.

Responding to the hon. Lady's key point, however, I will say that this issue is already reflected in the victims code. Right 5 for the victim is:

" To be provided with information about compensation".

That includes an entitlement for victims to be told about how to seek compensation, and is covered by the existing code principle in the Bill that victims should be provided with information to help them to understand the criminal justice process.

Compensation can come from several sources: court-ordered compensation; the taxpayer-funded criminal injuries compensation scheme; and civil compensation claims. The code provides for victims to be made aware of routes through which they might obtain compensation for the harm or loss that they have suffered, but the code is not in itself a mechanism for providing compensation and the eligibility of individuals for compensation is determined by the courts or other bodies, such as the Criminal Injuries Compensation Authority, that operate independently of Government. For that reason, it is our view that the existing entitlement to information about compensation is the right one for the code.

I turn to amendment 39, which seeks to provide that victims of child sexual abuse are entitled to and can access compensation under the statutory criminal injuries compensation scheme by including it as a requirement in the victims code and changing the scope, time limits and unspent convictions eligibility rules of the scheme.

As I have already alluded to, I am aware of the hon. Lady's long-standing interest and work in ensuring support for victims of child sexual abuse and exploitation. I recall that she raised concerns about time limits and other aspects of the scheme in a debate, which I think I answered, on the Government's victims strategy in 2018. I welcome her contributions to the review of the scheme that we announced in that strategy. However, our view is that the victims code is not a mechanism through which changes to the scheme can be made. Changes such as those that the amendment seeks to bring about need to be made in accordance with the primary legislation under which the scheme is made and to follow the appropriate procedures for any changes. The Criminal Injuries Compensation Act 1995 requires that before a new or amended scheme can be made, a draft must be laid in Parliament and approved by a resolution of each House.

We are actively considering the issues that the hon. Lady raises in relation to the scheme itself, which of course reflect recommendations made by the independent inquiry into child sexual abuse. We have committed to consult on whether to change the scope and time limits of the scheme, and we hope to do so in the coming months. I caveat that by saying that, of course, the scheme must be financially sustainable; that will be one of the elements that we will need to consider.

As the hon. Lady will know, this will be the third consultation of our review, as we have already consulted on reforms to the scheme as a whole in 2020, which was the process that she worked with me to kick off when I was last in the Ministry of Justice, and then again in 2022 on whether to amend the unspent convictions eligibility rule, following—I believe—a court judgment requiring that review.

My intention is to publish a single response to all three consultations as soon as they are all completed and as soon as is practically possible. I am seeking, as the hon. Lady will see, to get through some of the unfinished business that I had in the Department when I left it and went to the Department of Health and Social Care. We have brought this proposal forward. There are a number of other issues that still remain in my in-tray that I recall from when I worked with her pre-pandemic.

For those reasons, I encourage the hon. Member for Rotherham not to press this amendment to a vote, having put on the record her clear views.

I turn to amendment 55, which was tabled by the hon. Member for Birmingham, Yardley, and seeks to provide that children born of rape are entitled to and can access

[Edward Argar]

compensation under the statutory criminal injuries compensation scheme by including it as a requirement in the victims code. As the hon. Lady has already alluded to, the Bill explicitly recognises, for the first time in legislation, people born of rape as victims in their own right. This will help them to access vital support services. I pay tribute to the hon. Lady and to other campaigners who have relentlessly pursued this cause and successfully campaigned for this change.

In relation to criminal injuries compensation, as the hon. Member for Birmingham, Yardley may know, the statutory scheme has eligibility criteria that are approved by Parliament. The core purpose of the scheme is to provide compensation to victims who suffer a serious physical or mental injury attributable to their being a direct victim of a crime of violence. The scheme defines a crime of violence and specifies when a person will be eligible for a compensation payment for injury directly resulting from that crime. Under the current scheme, the birth mother of a child born of rape would be entitled to apply for compensation as the direct victim of a sexual assault and a crime of sexual violence. An additional payment can be made where a pregnancy directly results from the sexual assault.

The scheme also provides for compensation to be available to a person who sustains injury while taking an exceptional and justified risk in the course of limiting or preventing a crime, or if they have been present at or witnessed an incident or its immediate aftermath in which a loved one sustains a criminal injury. Provisions in the Bill do not affect eligibility for the scheme and, as I have already said, the victims code is not a mechanism through which changes can be made. A change such as that which the amendment proposes would need to be made in accordance with the primary legislation under which the scheme is made.

I hope that I can give the hon. Member for Birmingham, Yardley a little bit of reassurance, as I did for the hon. Member for Rotherham. We are in the process of finalising the third and final part of the consultation. When we have done that, we will come forward to Parliament with our response, and of course that will have to be laid before Parliament as a new scheme. I hope that might give both hon. Members the opportunity to raise these issues in the correct way, when the scheme is being considered by the House.

Sarah Champion: I welcome all that the Minister is doing. If I can help or support him in any way, obviously I will. The victims code is a fantastic tool, but it is only useful if victims know about it. Unfortunately, therein lies the nub of most of our arguments. However, I have heard what he said, so I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: I am afraid that I am now leaving you for the rest of the Bill, because my fellow Chairmen are taking over. May I thank you for a very interesting and moving day? Thank you so much.

5.27 pm

Ordered, That further consideration be now adjourned. *—(Fay Jones.)*

Adjourned till Thursday 29 June at half-past Eleven o'clock.

Written evidence to be reported to the House

VPB31 Claire Waxman OBE, Independent Victims' Commissioner for London (supplementary submission)

VPB32 SafeLives (supplementary submission)

VPB33 West Midlands Police and Crime Commissioner