



# House of Commons

Thursday 2 July 2020

## PUBLIC BILL COMMITTEE PROCEEDINGS

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### COUNTER-TERRORISM AND SENTENCING BILL

[FIRST TO SIXTH SITTINGS]

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#### GLOSSARY

*This document shows the fate of each clause, schedule, amendment and new clause.*

*The following terms are used:*

*Agreed to:* agreed without a vote.

*Agreed to on division:* agreed following a vote.

*Negatived:* rejected without a vote.

*Negatived on division:* rejected following a vote.

*Not called:* debated in a group of amendments, but not put to a decision.

*Not moved:* not debated or put to a decision.

*Question proposed:* debate underway but not concluded.

*Withdrawn after debate:* moved and debated but then withdrawn, so not put to a decision.

*Not selected:* not chosen for debate by the Chair.

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[FIRST AND SECOND SITTING]

Chris Philp

*Agreed to*

That—

- (1) the Committee shall (in addition to its first meeting at 11.30 am on Thursday 25 June) meet;
  - (a) at 2.00 pm on Thursday 25 June;
  - (b) at 9.25 am and 2.00 pm on Tuesday 30 June;
  - (c) at 11.30 am and 2.00 pm on Thursday 2 July;
  - (d) at 9.25 am and 2.00 pm on Tuesday 7 July;
  - (e) at 11.30 am and 2.00 pm on Thursday 9 July;
- (2) the Committee shall hear oral evidence in accordance with the following Table;

Counter-Terrorism and Sentencing Bill, *continued*

## TABLE

| <i>Date</i>      | <i>Time</i>                  | <i>Witness</i>  |
|------------------|------------------------------|---|
| Thursday 25 June | Until no later than 12.30 pm | Jonathan Hall QC, Independent Reviewer of Terrorism Legislation                       |
| Thursday 25 June | Until no later than 13.00 pm | The National Police Chiefs' Council   |
| Thursday 25 June | Until no later than 14.30 pm | Prison Reform Trust   |
| Thursday 25 June | Until no later than 15.00 pm | The Northern Ireland Human Rights Commission  |
| Thursday 25 June | Until no later than 15.30 pm | Law Society of Scotland   |
| Thursday 25 June | Until no later than 16.00 pm | Professor Donald Grubin, Newcastle University   |
| Tuesday 30 June  | Until no later than 9.55 am  | The Professional Trades Union for Prison, Correctional and Secure Psychiatric Workers |
| Tuesday 30 June  | Until no later than 10.25 am | The Tony Blair Institute for Global Change  |
| Tuesday 30 June  | Until no later than 10.55 am | Professor Andrew Silke, Cranfield University  |

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clause 2; Schedule 2; Clause 3; Schedule 3; Clauses 4 to 6; Schedule 4; Clauses 7 to 19; Schedule 5; Clauses 20 and 21; Schedule 6; Clauses 22 and 23; Schedule 7; Clauses 24 and 25; Schedule 8; Clauses 26 and 27; Schedule 9; Clause 28; Schedule 10; Clauses 29 to 36; Schedule 11; Clauses 37 to 45; Schedule 12; Clauses 46 to 48; Schedule 13; Clauses 49 to 53; new Clauses; new Schedules; remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 14 July.

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Chris Philp

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.

*Agreed to*

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**Counter-Terrorism and Sentencing Bill**, *continued*

Chris Philp

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

*Agreed to*


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*The following witnesses gave oral evidence:*

*Jonathan Hall QC, Independent Reviewer of Terrorism Legislation*

*Assistant Chief Constable Tim Jacques, Deputy Senior National Coordinator for Counter Terrorism Policing*

*Peter Dawson, Director, Prison Reform Trust*

*Les Allamby, Chief Commissioner, and Dr Hannah Russell, Director of Legal, Research and Investigations, and Advice to Government, Northern Ireland Human Rights Commission*

*Michael Clancy, Director, Law Reform, Law Society of Scotland*

*Professor Donald Grubin, Professor of Forensic Psychiatry, Newcastle University*

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*[THIRD AND FOURTH SITTINGS]*

*The following witnesses gave oral evidence:*

*Mark Fairhurst, National Chair, The Professional Trades Union for Prison, Correctional and Secure Psychiatric Workers*

*Professor Ian Acheson, Senior Advisor, Counter Extremism Project, The Tony Blair Institute for Global Change*

*Professor Andrew Silke, Professor of Terrorism, Risk and Resilience, Cranfield Forensic Institute, Cranfield University*

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Alex Cunningham

*Withdrawn after debate* 35

Clause 1, page 1, line 8, at end insert—

“(ab) In subsection (3), after “if” insert “the court has found beyond reasonable doubt that””

Alex Cunningham

*Withdrawn after debate* 36

Clause 1, page 3, line 30, at end insert—

“(8) Before this section comes into force, the Secretary of State must commission an analysis of the impact of this section on people with protected characteristics, including but not limited to—

- (a) the impact on people from minority faith groups, including the numbers received into prison and the length of the sentence served;
- (b) the impact on people from BAME communities, including the numbers received into prison and the length of the sentence served; and
- (c) the consequences of any disproportionate impact on people with protected characteristics on efforts by the prison authorities to rehabilitate prisoners convicted of terrorism offences.

(9) A copy of the analysis must be laid before both Houses of Parliament.”

*Clause agreed to.**Schedule 1 agreed to.*

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**Counter-Terrorism and Sentencing Bill, *continued***

*Clause 2 agreed to.*

*Schedule 2 agreed to.*

*Clause 3 agreed to.*

*Schedule 3 agreed to.*

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Alex Cunningham

*Negatived on division 37*

Clause 4, page 5, line 32, at end insert—

- “(7) The pre-sentence report must—
- (a) take account of the offender’s age;
  - (b) consider whether options other than a serious terrorism sentence might be more effective at—
    - (i) reducing the risk of serious harm to members of the public, or
    - (ii) rehabilitating the offender.
- (8) The court must take account of any points made by the pre-sentence report in relation to the matters in subsection (7) and consider whether they constitute exceptional circumstances under subsection (2).”

*Clause agreed to.*

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Alex Cunningham

*Withdrawn after debate 38*

Clause 5, page 7, line 35, after “25 years.”, insert—

- “(5) Where—
- (a) a prisoner is subject to a licence for an extension period under this section, and
  - (b) the qualifying period has expired,
- the Secretary of State shall, if directed to do so by the National Probation Service, order that the licence is to cease to have effect.
- (6) Where—
- (a) the prisoner has been released on licence for an extension period under this section;
  - (b) the qualifying period has expired; and
  - (c) if the prisoner has made a previous application under this subsection, a period of at least twelve months has expired since the disposal of that application,
- the prisoner may make an application to the National Probation Service under this subsection.
- (7) Where an application is made under subsection (6) above, the National Probation Service—
- (a) shall, if it is satisfied that it is no longer necessary for the protection of the public that the licence should remain in force, direct the Secretary of State to make an order that the licence is to cease to have effect;

**Counter-Terrorism and Sentencing Bill**, *continued*

- (b) shall otherwise dismiss the application.
- (8) In this section, “the qualifying period”, in relation to a prisoner who has been released on licence, means the period of ten years beginning with the date of his release.”

*Clause agreed to.*

Joanna Cherry  
Kenny MacAskill

*Withdrawn after debate* 43

Clause 6, page 8, line 10, at end insert—

“(ea) the court does not impose an order for lifelong restriction under section 210F of the Criminal Procedure (Scotland) Act 1995, and”

Alex Cunningham

*Not called* 45

Clause 6, page 9, line 20, leave out subsection (11) and insert—

“(11) In forming an opinion for the purposes of subsections (1)(d) and (6), the court must consider a report by a relevant officer of a local authority about the offender and the offender’s circumstances.

(11A) Where the offender is under 21 years of age, the report must—

(a) take account of the offender’s age; and

(b) consider whether options other than a serious terrorism sentence might be more effective at—

(i) reducing the risk of serious harm to members of the public, or

(ii) rehabilitating the offender;

and the court must take these factors into account when forming its opinion under subsection (6).

(11B) In considering the report, the court must, if it thinks it necessary, hear the relevant officer.”

*Clause agreed to.*

*Schedule 4 agreed to.*

Alex Cunningham

*Not called* 46

Clause 7, page 10, line 13, at end insert—

“(2A) Where the offender is under the age of 21, in forming an opinion for the purposes of paragraph (2), the court must consider and take into account a pre-sentence report within the meaning of Article 4 which must—

(a) take account of the offender’s age; and

(b) consider whether options other than a serious terrorism sentence might be more effective at—

(i) reducing the risk of serious harm to members of the public, or

(ii) rehabilitating the offender.”

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**Counter-Terrorism and Sentencing Bill, *continued***

*Clause agreed to.*

*Clauses 8 to 10 agreed to.*

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*[FIFTH AND SIXTH SITTINGS]*

Alex Cunningham

*Withdrawn after debate* 39

Clause 11, page 12, line 42, at end insert—

“(7) Before this section comes into force, the Government must publish an analysis of the impact of the introduction of minimum term orders for terrorism offenders on sentencing for other offences.

(8) A copy of the analysis must be laid before both Houses of Parliament.”

***Member’s explanatory statement***

*This amendment requires the Government to publish an analysis of the impact of the minimum terms on sentencing for related offences.*

*Clause agreed to.*

*Clauses 12 to 15 agreed to.*

Alex Cunningham

*Withdrawn after debate* 40

Clause 16, page 16, line 29, at end insert—

“(4) Section 255 of the Sentencing Code is amended as follows.

(5) After subsection (2) insert—

“(3) The pre-sentence report must in the case of a serious terrorism offence under section 256(4)(b)(iii)—

(a) take account of the offender’s age;

(b) consider whether options other than an extension period of eight to ten years might be more effective at—

(i) reducing the risk of serious harm to members of the public, or

(ii) rehabilitating the offender.”

(4) The court must take account of any points made by the pre-sentence report in relation to the matters in subsection (3).”

(6) The Secretary of State must at least once a year conduct and lay before Parliament a review of the effectiveness of the provisions of this section and their impact upon offenders.

(7) The report of the first review must be laid before Parliament within one year of this Act being passed.”

*Clause agreed to.*

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**Counter-Terrorism and Sentencing Bill, continued**

Alex Cunningham

*Not called* 41

Clause 17, page 17, line 4, at end insert—

“(4) Section 267 of the Sentencing Code is amended as follows.

(5) After subsection (2) insert—

“(2A) The pre-sentence report must in the case of a serious terrorism offence under section 268(4)(b)(iii)—

(a) take account of the offender’s age;

(b) consider whether options other than an extension period of eight to ten years might be more effective at—

(i) reducing the risk of serious harm to members of the public, or

(ii) rehabilitating the offender.

(2B) The court must take account of any points made by the pre-sentence report in relation to the matters in subsection (2A).”

(6) The Secretary of State must at least once a year conduct and lay before Parliament a review of the effectiveness of the provisions of this section and their impact upon offenders.

(7) The report of the first review must be laid before Parliament within one year of this Act being passed.”

*Clause agreed to.**Clauses 18 and 19 agreed to.**Schedule 5 agreed to.**Clause 20 agreed to.*

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Alex Cunningham*Not called* 42

Clause 21, page 18, line 23, at end insert—

“(3) Before this section comes into force, the Secretary of State must conduct an analysis of the impact of this section on people with protected characteristics, including but not limited to—

(a) the impact on people from minority faith groups, including the numbers received into prison and the length of the sentence served;

(b) the impact on people from BAME communities, including the numbers received into prison and the length of the sentence served; and

(c) the consequences of any disproportionate impact on people with protected characteristics on efforts by the prison authorities to rehabilitate prisoners convicted of terrorism offences.

(4) A copy of the analysis must be laid before both Houses of Parliament.”

***Member’s explanatory statement****This amendment requires the Secretary of State to commission an analysis of the impact of extending sentences for offenders of particular concern on people with protected characteristics.**Clause agreed to.*

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**Counter-Terrorism and Sentencing Bill, *continued***

*Clause 22 agreed to.*

*Schedule 6 agreed to.*

*Clauses 22 and 23 agreed to.*

*Schedule 7 agreed to.*

*Clauses 24 and 25 agreed to.*

*Schedule 8 agreed to.*

*Clauses 26 and 27 agreed to.*

*Schedule 9 agreed to.*

*Clause 28 agreed to.*

*Schedule 10 agreed to.*

*Clauses 29 and 31 agreed to.*

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Joanna Cherry  
Kenny MacAskill

*Withdrawn after debate* 48

Clause 32, page 28, line 22, at the end insert—

“(b) In subsection (1) at the end insert—

“( ) The regulations under section 35(1) of the Counter-Terrorism and Sentencing Act 2020 must include provision that the following must not be used in evidence against the released person in any proceedings for an offence—

- (a) any statement made by the released person while participating in a polygraph session, or
- (b) any physiological reaction of the released person while being questioned in the course of a polygraph examination.”

***Member’s explanatory statement***

*This amendment ensures that the results of any polygraph test must not be disclosed for use in a criminal prosecution.*

*Clause agreed to.*

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**Counter-Terrorism and Sentencing Bill, continued**

Joanna Cherry  
Kenny MacAskill

*Not called* 49

Clause 33, page 29, line 41, leave out “may” and insert “must”

***Member’s explanatory statement***

*This amendment ensures that the results of any polygraph test must not be disclosed for use in a criminal prosecution.*

*Clause agreed to.*

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Joanna Cherry  
Kenny MacAskill

*Not called* 50

Clause 34, page 31, line 13, leave out “may” and insert “must”

***Member’s explanatory statement***

*This amendment ensures that the results of any polygraph test must not be disclosed for use in a criminal prosecution.*

*Clause agreed to.*

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Joanna Cherry  
Kenny MacAskill

*Withdrawn after debate* 51

Clause 35, page 33, line 8, after “State” insert “after consulting with Scottish Ministers and the Department of Justice”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to consult with the Scottish Ministers and Northern Ireland Department of Justice when making regulations under clause 35(1).*

Joanna Cherry  
Kenny MacAskill

*Not called* 52

Clause 35, page 33, line 12, after “State” insert “after consulting with Scottish Ministers and the Department of Justice”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to consult with the Scottish Ministers and Northern Ireland Department of Justice when making regulations under clause 35(2).*

Joanna Cherry  
Kenny MacAskill

*Not called* 53

Clause 35, page 33, line 17, after “qualifications” insert “training”

***Member’s explanatory statement***

*This amendment adds “training” to the list of contents in regulations made under clause 35(2).*

**Counter-Terrorism and Sentencing Bill, continued**

Joanna Cherry  
Kenny MacAskill

*Not called* 54

Clause 35, page 33, line 19, after “keeping” insert “and confidentiality”

***Member’s explanatory statement***

*This amendment ensures that regulations under clause 35(2) include provision for confidentiality of polygraph records.*

Joanna Cherry  
Kenny MacAskill

*Not called* 55

Clause 35, page 33, line 43, after “State” insert “after consulting with Scottish Ministers and the Department of Justice”

***Member’s explanatory statement***

*This amendment ensures that approval by the Secretary of State of polygraph equipment under clause 35(7) should take place after consultation with the Scottish Ministers and the Northern Ireland Department of Justice.*

Alex Cunningham

*Not selected* 63

★ Clause 35, page 34, line 4, leave out from “an instrument” to end of line 5 and insert “may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

*Clause agreed to.*

*Clause 36 agreed to.*

*Schedule 11 agreed to.*

[Adjourned until Tuesday 7 July at 9.25 am]