PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

First Sitting

Thursday 27 February 2025

(Morning)

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not later than

Monday 3 March 2025

The Committee consisted of the following Members:

Chairs: † Dawn Butler, Dame Siobhain McDonagh, Dr Andrew Murrison, Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Witnesses

Enver Solomon, Chief Executive, Refugee Council

Daniel O'Malley, Policy and Public Affairs Specialist Manager, Scottish Refugee Council

Mubeen Bhutta, Director of Policy, Research and Advocacy, British Red Cross

Zoe Bantleman, Legal Director, Immigration Law Practitioners' Association

Dr Peter William Walsh, Senior Researcher, Migration Observatory

Dame Rachel de Souza, Children's Commissioner for England

Public Bill Committee

Thursday 27 February 2025

(Morning)

[Dawn Butler *in the Chair*]

Border Security, Asylum and Immigration Bill

11.30 am

The Chair: We are now sitting in public and the proceedings are being broadcast. Before we begin, I remind Members to please switch electronic devices to silent, and that tea and coffee are not allowed during sittings.

We will first consider the programme motion on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication, and a motion to allow us to deliberate in private about our questions before the oral evidence session. In view of the time available, I hope we can take these matters formally, without debate. The programme motion was discussed yesterday by the Programming Sub-Committee for the Bill.

Ordered,

That—

1. the Committee shall (in addition to its first meeting at 11.30 am on Thursday 27 February) meet—

(a) at 2.00 pm on Thursday 27 February;

(b) at 9.25 am and 2.00 pm on Tuesday 4 March;

(c) at 11.30 am and 2.00 pm on Thursday 6 March;

(d) at 9.25 am and 2.00 pm on Tuesday 11 March;

(e) at 11.30 am and 2.00 pm on Thursday 13 March;

(f) at 9.25 am and 2.00 pm on Tuesday 18 March;

(g) at 11.30 am and 2.00 pm on Thursday 20 March;

2. the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Thursday 27 February	Until no later than 12.10 pm	Refugee Council, Scottish Refugee Council, British Red Cross
Thursday 27 February	Until no later than 12.40 pm	Immigration Law Practitioners' Association, Migration Observatory
Thursday 27 February	Until no later than 1.00 pm	The Children's Commissioner for England
Thursday 27 February	Until no later than 2.40 pm	National Police Chiefs' Council, National Crime Agency, Crown Prosecution Service
Thursday 27 February	Until no later than 3.20 pm	Migration Watch, Tony Smith, former Director, UK Border Force, Centre for Policy Studies
Thursday 27 February	Until no later than 3.40 pm	David Coleman, Emeritus Professor of Demography, University of Oxford
Thursday 27 February	Until no later than 4.00 pm	Professor Brian Bell, Professor of Economics, King's College London
Thursday 27 February	Until no later than 4.20 pm	Home Office

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 40; Schedule 1; Clauses 41 to 47; Schedule 2; Clauses 48 to 57; 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 Thursday 20 March.—*(Dame Angela Eagle.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Dame Angela Eagle.)*

The Chair: Copies of the written evidence that the Committee receives will be made available in the Committee Room.

Resolved,

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.—*(Dame Angela Eagle.)*

11.31 am

The Committee deliberated in private.

Examination of Witnesses

Enver Solomon, Daniel O'Malley and Mubeen Bhutta gave evidence.

11.34 am

The Chair: We are now sitting in public again, and the proceedings are being broadcast. Before we start hearing from witnesses, do any Members wish to make a declaration of interest in connection with the Bill?

Susan Murray (Mid Dunbartonshire) (LD): I want to let the Committee know that I know Daniel O'Malley from Scotland through the Liberal Democrats.

Kenneth Stevenson (Airdrie and Shotts) (Lab): I have previously met Daniel O'Malley as well.

Chris Murray (Edinburgh East and Musselburgh) (Lab): I did too.

The Chair: Very popular. If any interests are particularly relevant to a Member's questioning or speech, they should declare them again at the appropriate time. We will now hear oral evidence from the Refugee Council, the Scottish Refugee Council and the British Red Cross. We must stick to the timings that the Committee has agreed in the programme motion. For this panel, we have until 12.10 pm. Could the witnesses please briefly introduce themselves for the record?

Enver Solomon: Thank you very much, Chair. My name is Enver Solomon, and I am the chief executive of the Refugee Council.

Mubeen Bhutta: Good morning; I am Mubeen Bhutta, the director of policy research and advocacy at the British Red Cross. I think you have all been told that I am a hearing aid user; I am just having an issue with one of my hearing aids, so I need to step out and step back in, if that is okay.

The Chair: Yes, that is okay.

Daniel O'Malley: I am Daniel O'Malley, policy and public affairs specialist with the Scottish Refugee Council.

Q1 Matt Vickers (Stockton West) (Con): First, what are your views on the functions and objectives of the Border Security Command, as set out in the Bill?

Enver Solomon: I am happy to take that one. Our view is that this legislation is rightly seeking to disrupt the criminal gangs—the smuggling gangs. The trade is heinous; it is very damaging to people and it needs to be stopped. In that context, the Border Security Command is an understandable response. I think the issue that we have with it is that it is very difficult to simply rely on enforcement to tackle what is a complex and challenging situation.

The Bill is putting multiple eggs in the basket of enforcement, not just through the Border Security Command but by introducing a number of new offences. Our view, based on our frontline practice and work over many decades with people who have come to this country from war zones, having fled persecution or having been victims of modern slavery, is that that strategy will fundamentally fall short, because it is very difficult to change behaviour by adopting a primarily enforcement approach, which is primarily driven by further prosecution and creating new laws.

Essentially, new laws, such as the offences created in the Bill, are pretty much a blunt instrument to deal with behaviour that drives people to seek protection in other countries and to come here seeking asylum. I think that the evidence, from the offences created in previous legislation, demonstrates that they have not acted as a deterrent.

To sum up, enforcement is an understandable and legitimate approach, but it is only one approach, and it needs to be combined with other approaches that focus on international diplomacy and co-operation, and, critically, on additional legal routes. If you look at the evidence, particularly from the US under the previous Administration, the combination of those three can have a demonstrable impact on reducing irregular arrivals.

Despite the intention that this Bill has set out, our concern is that it will not deliver the outcome—the understandable and credible outcome—that the Government are trying to achieve, which is to stop the people smugglers and to stop people making dangerous crossings. It is focusing too much on an enforcement-driven agenda.

Q2 Matt Vickers: What provisions would you like to see in the Bill—you talked about a broader approach—that are not in there?

Enver Solomon: We would have liked to see more provisions that look at opening up targeted, additional humanitarian pathways, additional legal routes, and additional mechanisms for people to seek humanitarian protection and make applications for asylum without necessarily having to take dangerous journeys. We have advocated for a targeted humanitarian visa to be piloted for specific nationalities where there is a high grant rate.

We would also have preferred to see the full repeal of the Illegal Migration Act 2023—not all provisions have been repealed. It is very positive that a significant number have been repealed, and that the Government have started to clear the backlog and essentially end the meltdown of the asylum system under the previous Administration, with the failed implementation of the Act. That is positive, but we think that retaining other provisions in the Act, particularly the provisions on inadmissibility, and not repealing the differential treatment provisions in the Nationality and Borders Act 2022, contribute to greater dysfunction in the system.

The Government's laudable and correct intention to bring greater efficiency and competence to the system is absolutely right, but having multiple pieces of legislation that just create greater dysfunction will not ensure that you get an effective end-to-end system. You do that by ensuring that you have reliable, speedy decision making on asylum; that decisions are right first time; that if people are granted protection, they can move through the system effectively with appropriate support; and that if people are not granted protection, the right steps are in place to support them. The focus needs to be much more on getting the asylum system to function, with a clear vision of its purpose, than on layering more and more legislation on to an already incredibly complex legislative system, which actually just creates further dysfunction.

The Chair: Before I go to the Minister, can I just check with Mubeen that you can hear us okay?

Mubeen Bhutta: Sorry?

The Chair: If we speak louder, is that better?

Mubeen Bhutta: Yes, that is helpful. I do apologise; it is a technical thing.

Q3 The Minister for Border Security and Asylum (Dame Angela Eagle): I will try to speak louder so that everybody can hear. I must say, I am having trouble hearing some things because of the acoustics in this room, and it is quite full. Perhaps if our witnesses could speak a bit louder as well, that might help everybody.

Enver, thank you for your evidence. You welcomed the repeal of the Safety of Rwanda (Asylum and Immigration) Act 2024 and the majority of the Illegal Migration Act, which this Bill accomplishes. Could you talk about your experience of trying to live with those Acts on the statute book? Some argue that those bits of legislation were the only deterrent that we could have had. Can I have your thoughts on whether they worked?

Enver Solomon: Absolutely. In short, they were a disaster. They were a disaster in terms of the lived experience of people who had come from places such as Sudan; we know about the civil war there. They created huge uncertainty and anxiety. Through our work, we saw a rise in levels of great mental distress, and even in suicide ideation, as a consequence of those pieces of legislation, which led to what we described as a system meltdown. That was a fundamental meltdown that resulted in the system pretty much coming to a standstill. The system slowed down, with productivity in asylum decision

making at its lowest level since the height of the covid pandemic. It is absolutely right that steps were taken to address that and to ensure that the asylum system is functioning effectively.

The asylum system has to deliver integrity. It has to ensure that the public have trust in a system that functions. It functions by ensuring that decisions are fair—the great British value of fair play—by ensuring that decisions are taken in a timely fashion and by ensuring that taxpayers' money is well spent. That means you do not have billions being wasted every year on housing people in hotels that become flashpoints for community tensions. The system also works effectively when it ensures that people are supported to integrate and to go on and contribute to communities across the country in the way that generations of refugees have done. Critically, you must also ensure that if people are not granted protection, there are appropriate pathways to support them to return to the countries they have come from.

Q4 Dame Angela Eagle: There are those—I would like the other witnesses to comment if they wish—who say that the only way of getting any coherence back into our system is to leave the European convention on human rights and disaggregate ourselves from all the human rights legislation. Do you think that that is an appropriate way forward?

Enver Solomon: I will let my colleagues come in.

Daniel O'Malley: In relation to the European convention on human rights, frankly, coming out will not help anyone—it will not make the system any more efficient. For example, when it comes to the human trafficking provisions in the Illegal Migration Act, we want to see more of those repealed because they undermine human trafficking protections in Scotland.

The broader repeal that has happened of the Illegal Migration Act and the statutory instrument laid down to alter that Act has aided, for example, the guardianship programme in Scotland, which gives a guardian to unaccompanied minors in Scotland and was put on to a statutory footing in Scotland under the Human Trafficking and Exploitation (Scotland) Act 2015. It helps that programme because asylum claims were previously just not being made under the IMA, so that programme had thousands more people in it. The programme was operating, but it was getting overloaded with more and more people.

The wider point is that there are protections that we are signed up to—for example, the UN convention for refugees. Continuing with those is absolutely right; the repeal of them will not make the system any more efficient and it will not be a deterrent to anyone.

Q5 Dame Angela Eagle: Mubeen, do you have a comment?

Mubeen Bhutta: I do not have anything more to add to the important points that Daniel made.

Q6 Mr Will Forster (Woking) (LD): I want to broaden this out. Enver highlighted the Refugee Council's view on the Bill being too narrow. What is the view of the Scottish Refugee Council and the British Red Cross on that? What do you think of safe, legal routes?

Mubeen Bhutta: I did not quite catch the first bit of your question, but I think you are asking about safe and legal routes. I endorse some of the comments that my colleague Enver has already made. We welcome the Bill. We welcome the intention of the Bill around reducing the loss of life in the channel, but that is only half of the story.

It is really important that we look at the reasons why people are putting their lives in the hands of people smugglers in the first place. It is often because there is no other choice—there is no route that they can take. We would like to see more safe and legal routes, whether that is new routes, such as enabling people to apply for a humanitarian visa in the country that they are in to come directly to the UK and then be able to claim asylum, or expanding existing routes such as family reunion, so that there is more eligibility for people to use those routes.

It is really important to look at both sides of the coin. In a way, you could consider this Bill to be looking at the supply of this sort of activity, but it does not do anything about the demand. People will still need to make those journeys if no other routes are available.

Daniel O'Malley: For us, this is another migration Bill on top of many migration Bills. The system that people seeking asylum currently face is convoluted and arbitrary, and it is founded on hostility. As Mubeen rightly said, it is about the enforcement and stopping people crossing, rather than creating a more efficient asylum system. For us at the Scottish Refugee Council, that is what we are concerned about in the Bill. You talked about the Bill being quite narrow, but there are aspects of it that are far too broad and that can be applied in too broad a manner.

For the Scottish Refugee Council, the asylum aspects of the Bill do not address an updating of the asylum system. There are points on integration that should be considered as well. Nothing in the Bill talks about the integration of people seeking asylum while they are in the system. We commend the Government for speeding up the clearing of the backlog, which is great, but work needs to be done to help people who are in the system to integrate into the country. About 75% of people in the system will typically be granted refugee status, so work needs to be done to help them to integrate into communities, rather than having them in asylum accommodation or hostile environments.

The Government are rightly looking at asylum accommodation and the Home Affairs Committee is also doing an inquiry into it, so we know the work is being done. We would have liked to see the Bill contain a point about integration. The work in Scotland on this is the "New Scots Refugee Integration Strategy", with an approach to integration from day one of arrival. We would like to see that extended to the UK level as well, mirroring what has also been done in Wales.

Q7 Mike Tapp (Dover and Deal) (Lab): We have met previously, Mr Solomon, and I want to declare that I have worked for the National Crime Agency in the past and in a counter-terror role. I understand the points you made on enforcement, but what are your views on the fact that the Bill also includes strong disruptive measures, which is of course pre-enforcement, such as search and seizure?

Enver Solomon: I think those measures are legitimate. As I said, it is important to take steps to disrupt the activity of gangs that are causing huge harms to the lives of individual men, women and children, who are often extremely vulnerable. Attempts such as the powers you referred to are important and have a role to play—I am not disputing that. What I am saying is that they need to be used proportionately and to be clearly targeted at the individuals behind the criminal gangs and the trade of the criminal gangs.

Our concern is that, by broadening criminal powers in the Bill and specifically by introducing new offences, individuals will be caught up in that process. People who are coming across in very flimsy and dangerous vessels will end up being criminalised through no fault of their own. We are also concerned that using further laws—as has been seen across a whole range of different areas of public policy—is a blunt instrument to try to change the behaviour of people.

People will not stop getting into flimsy dinghies and coming across the channel or the Mediterranean because of new offences that they might face. They will probably know very little about the nature of those offences. They will know very little about the new rules that mean, if you get refugee protection, you will no longer be able to go on and gain British citizenship. We know that from our experience: they will know nothing about that, so it will not change behaviour or provide the deterrence that I think it is hoped it will provide.

That is why you need to use these powers in a very targeted, proportionate way that deals with the prosecution of the criminal behaviour but does not result in, in effect, punching down on those vulnerable people who are getting into the boats because they want to seek safety. It will not change their behaviour. That is our experience from having worked with refugees and people seeking asylum over many decades.

Q8 Pete Wishart (Perth and Kinross-shire) (SNP): Welcome; thank you for coming along and giving your evidence, and for your written evidence. I think you are absolutely right to focus on the new criminal clauses that are included in the Bill, and to comment on how invidious they may be in how they might be broadly applied to asylum seekers. Do you agree that, if we could find some provision or series of amendments that removed asylum seekers from the focus of these new criminal laws, that might be a useful development? One of the clauses I would like you to comment on is the one that introduces an offence of endangering another person during sea crossings. You are experienced in working with asylum seekers and refugees—do they have any cognisance of the hardening of immigration and asylum laws in the UK when they are trying to get their family to safety from a war-torn region?

Enver Solomon: I would say not. I will come to clause 18 in a second, but I encourage the Committee to look at clauses 13 and 14. In our submission, we proposed that they should be amended to ensure the focus of the new offence is on people smugglers and not on those seeking protection in the UK. We also said that clause 15 should be amended to include other items that are important for reducing the risk that people face when attempting to cross the channel, and that the Government should consult widely to ensure the list is as extensive as is necessary.

On endangering others, given that, as Committee members will know, many of the boats now used are barely seaworthy and overcrowded, and that the numbers crammed into them are increasing, clause 18 could cover many more people than those whom the offence is apparently targeted at—that is, the people smugglers. On Second Reading, the Home Secretary gave some useful examples of the types of behaviour that could result in people being prosecuted, including physical aggression, intimidation, the rejection of rescue attempts and so on. We think the wording should be amended to reflect specific actions to ensure that the offence is very clearly focused.

We argue overall that these new offences are an extremely blunt instrument to change behaviours, and they will not have the desired effect of changing behaviours and stopping people getting into very dangerous, flimsy vessels.

Daniel O'Malley: To add to what Enver says, yes, it is a blunt instrument. We operate a refugee support service across the whole of Scotland, and when people come to our services they do not talk about the deterrence or anything like that; they talk about what they see once they get here. The environment that is created around people seeking asylum and refugees does not deter them from coming here, but once they are here, they feel that there is a threat to their protection and that their status here is under threat.

The language in these deterrents does not deter anybody from coming here; it just causes a hostile environment. That was the situation created by the previous Bills under the previous Government. We hope that will not be continued with the new Bill and other changes the Home Office is making. At the end of the day, when people come to our services and talk about stuff like this, they talk about how it makes them feel when they are in the country, not about how it deters them from coming here.

Q9 Chris Murray: I should probably declare that I used to work on refugee and asylum issues in Scotland, including with the Scottish Refugee Council. Enver, you talked a bit about the fundamental system meltdown, and the disfunction that the IMA and the Rwanda Act caused. I want to ask you a bit more about that. Would I be right in saying that those Acts basically caused a complete stop, or a complete slowdown, in any processing of asylum applications? What impact does that have on the communities where asylum seekers are placed, and on the people who serve those communities—the councils and charities? Does it make it hard for them to do their job? Does it cause local tensions? If we are repealing those components of the IMA and the Rwanda Act, would that address some of the challenges those communities are facing as a result of migration?

Enver Solomon: In short, what happened with the system meltdown that I referred to is that processing did pretty much come to a standstill. You had a huge and ever-growing backlog, and people were stuck in limbo indefinitely in the system. The number of people in hotels—asylum contingency accommodation, as it is called—reached record numbers. Hotels were being stood up in communities without proper prior assessments with relevant agencies of the potential needs—health, the NHS, and tensions vis-à-vis the police.

We work in Rotherham, where a hotel was brutally attacked and refugees were almost burned alive in the summer. My staff were in contact with people in the hotel who were live streaming what was happening. They thought that they were going to get burned alive. That hotel in Rotherham should never have been opened. It was always going to be a flashpoint. It was located in an incredibly isolated area, there were not appropriate support services, the local services were not properly engaged with in advance and there was no appropriate planning and preparation. That story, I am afraid, was repeated across the country because of the dysfunction and the system meltdown that the previous pieces of legislation resulted in. It is absolutely critical that we learn the lessons from that and do not repeat those mistakes.

There is no need to use asylum hotels. As I understand it, there are roughly 70,000 individual places within the asylum dispersal system today. If we had timely decisions being made in a matter of months, people moving through the system, a growing backlog in the appeal system dealt with by ensuring the decisions are right first time, and people having good access to appropriate legal information and advice from representation, which is a huge problem, you would begin gradually to fix the system.

It will take time to fix the system and create efficiencies, but it is absolutely vital that plans to move away from the use of hotels are taken forward rapidly, and that the current contracts in place with the three private providers to provide dispersal accommodation are radically reformed, because they just create community tensions. They are pivoted towards placing people in parts of the country where accommodation is usually cheap and where there are going to be growing tensions, often without support in place for people in those communities.

Mubeen Bhutta: I did not fully catch your question, Chris—I apologise.

Chris Murray: It was about the impact on local communities of the dysfunction created by the Illegal Migration Act and the Rwanda Act, and how much you attribute that dysfunction—especially the growing use of hotels for asylum seekers—to those Acts, which we are proposing to repeal.

Mubeen Bhutta: I probably do not have a huge amount more to add to what Enver just said, but it goes back to what was said earlier about the speed of decision making, the time that people are left in accommodation, the suitability of that accommodation, the impact on their wellbeing—certainly in terms of what we three see through our services—and the need for a comprehensive strategy. It comes back to what we said at the beginning about what is in the Bill, and what needs to go alongside it that is not in the Bill, around integration.

Q10 Jo White (Bassetlaw) (Lab): How might the new offences impact individuals and organisations such as charities or non-governmental organisations that provide support to migrants? For example, if a Vietnamese woman who works in a nail bar comes to one of your services, what mechanisms do you have in place to investigate and report any illegal working?

Mubeen Bhutta: We do not fully know what the impact of that new offence will be, because it is not enforced yet. It is helpful to see that there is provision in the drafting around charities and their role, but it is not certain how that will play out. Our concern is also that new offences could impact the overall aims around the focus on seeking protection. It could influence behaviour or the ways that people offer support if there is concern that they might be caught.

Daniel O'Malley: On the point about the new offences and the deterrent aspect on human traffickers and smuggling gangs, there are aspects of the Illegal Migration Act that have not been repealed that apply to human trafficking. For example, a provision about disqualification from human trafficking protection in section 29 of the IMA has been kept. We would like to see that removed because an individual who has been in a nail bar and might have been human trafficked, as tends to be the case, might not come to any services due to fear of being disqualified from human trafficking protection because they may have engaged in criminal activity. If you have been human trafficked, you are likely to have engaged in criminal activity by virtue of that. That is the problem with the aspects of the Illegal Migration and Nationality and Borders Acts that have been left in.

The Nationality and Borders Act still contains section 60, which raised the threshold for referral to the national referral mechanism. Someone from a legal organisation in Scotland said that before the Nationality and Borders Act—he had been a lawyer for a couple of years by then—he had done one judicial review on the national referral mechanism. Since the Nationality and Borders and Illegal Migration Acts, he has done more than 50 judicial reviews. That keeps in the Act a freezing factor. Gangs and human traffickers can scare people who have been human trafficked by saying, "You might not get this protection because these offences could be applied or your protection could be taken away." That is the aspect we would like to see removed to make sure that any offences are not disproportionately affecting victims of human trafficking.

The Chair: The next question will be the last. Witnesses, if there is anything that you have not yet said but would like to say, please do so.

Q11 Tom Hayes (Bournemouth East) (Lab): Part of the aim of the Bill is to minimise opportunities for crossings, which involves targeting the criminal smuggler gangs that are enabling small boat crossings to take place. Do you agree that enforcement activities against those smuggler gangs will have a deterrent effect—that enforcement activity has value in its own right, but minimising the number of crossings by disrupting the business model will have a deterrent effect? On Enver's point about the asylum hotel that was at risk of burning down, would you agree that those Government policies directly and gravely put the lives of vulnerable asylum seekers at risk?

Enver Solomon: The system meltdown that came about because of the fantastical Rwanda policy and the full provisions of the Illegal Migration Act left people in a state of permanent limbo, in inappropriate accommodation, in very vulnerable situations, in communities where there were high tensions. As a consequence of that, people's wellbeing was potentially compromised. There is no question about that. We saw that through our work. We saw the rise in stress and in suicidal ideation.

There was very clear evidence from our practice about the impact of what was, as we described, a system meltdown.

On your point about enforcement, enforcement has a role to play but it has to be one strategy combined with others—one side of a multi-pronged approach. Similarly to the evidence from dismantling drug trafficking, often when you dismantle one set of smugglers or gangmasters, others will reappear and take over that part of the trade. It is very difficult to enforce and prosecute your way out of this challenge. Multiple strategies have to be adopted—

The Chair: Order. Sorry to interrupt, but we are in our last minute. Mubeen and Daniel, would you like to come in quickly?

Mubeen Bhutta: Thank you—my hearing aid has magically started working.

On disrupting the business model, going back to what we said at the beginning about this being the other half of the safe routes story, clause 34 is about taking biometrics and introduces flexibility so that biometrics can be taken outside visa centres. We would like to see that extended to people required to submit their biometrics for family reunion visas, because we know that people are making dangerous journeys to visa centres. Often there are multiple journeys, often in conflicts, and people often have to use smugglers to get across the border if the visa centre in their country is closed. There is a real opportunity to strengthen that existing safe route by extending the flexibility in clause 34.

The Chair: That brings us to the end of the time allocated. On behalf of the Committee, I thank our witnesses for their evidence.

Examination of Witnesses

Zoe Bantleman and Dr Peter Walsh gave evidence.

12.11 pm

The Chair: We will now hear oral evidence from the Immigration Law Practitioners Association and from Migration Observatory. Again, we must stick to the timings in the programme motion that the Committee has agreed. For this session, we have until 12.40 pm. Could the witnesses please briefly introduce themselves for the record?

Zoe Bantleman: Good afternoon. I am Zoe Bantleman and I am the legal director of the Immigration Law Practitioners Association.

Dr Peter Walsh: Good afternoon. I am a senior researcher at the Migration Observatory at the University of Oxford.

Q12 Matt Vickers: Do you think the new endangerment offence will make any difference to channel crossings?

Dr Peter Walsh: Evidence from academic research shows that the impacts of deterrence policies are fairly small. The main reason for that is that migrants often do not have accurate or detailed knowledge of policies in destination countries. Their understanding of those policies is often lacking in detail and wrong, and it is often influenced by what they are told by their smugglers or handlers, who have a vested interest, of course, in downplaying risks.

There is also some statistical evidence that looks more broadly at what drives unauthorised migration and asylum applications around the world. That has found that domestic policy is not statistically one of the more important factors. Instead, geopolitical developments, conflict—civil, ethnic or international conflict—ecological disaster and regime change are all statistically much stronger drivers of unauthorised migration and asylum applications in particular countries.

Finally, rounding out the picture, when an asylum seeker decides which destination country to move to, that calculus is influenced not just by policy—policy is one of the things that they take least account of—but by things like the presence of family members, members of the community, friends, language and in some cases, in the context of small boat arrivals, escaping the Dublin system. Individuals may have claimed asylum in other EU countries—maybe those claims are outstanding or have been refused—and they understand that if they move to the UK they cannot be returned to the EU, because we are no longer a part of the EU and of the Dublin system that facilitated that.

Q13 Dame Angela Eagle: Dr Walsh, you have just argued that deterrence does not really work, yet one of the big arguments on Second Reading was that somehow by repealing the Safety of Rwanda Act and most of the Illegal Migration Act we had thrown away the only thing that would work. Would you care to comment on that?

Dr Peter Walsh: Because under the IMA the Government proposed not to process people's claims, they would not have known whether returning those individuals to countries of origin would be safe or not. That is where Rwanda came in.

There were always questions about the deterrent effect of the Rwanda policy. For my part, whatever deterrent effect it would have had would have depended fundamentally on how many people were actually sent to Rwanda. You can imagine that if it was a large share of people arriving by small boat, that might make people think twice, but if it were a small share—only thousands a year when we have tens of thousands of small boat arrivals—that would imply that the chance of being sent to Rwanda was fairly small. You can imagine that the people then making the trip would view that risk as just one risk among many much greater risks—risking their lives, for example—so there were always real questions about the deterrent effect of the Rwanda policy and how many people would in fact have been sent there.

The last Government said that the scheme was uncapped, and the Rwandan Government said, "We can take as many people as you can send." But there were logistical challenges there, not least among them where people would be detained. At that time we had about 1,800 people in immigration detention in the UK, with a capacity of 2,200. You would have to detain people if you were threatening to remove them to Rwanda, so that was a very big initial stumbling block, putting aside whatever the capacity of those Rwandan facilities would have been, and more broadly the capacity of the Rwandan asylum system to process large numbers of claims. Typically it processed only a few hundred a year, not 10,000 or 20,000, so there were real questions there.

The big risk was what to do with people who are neither deterred from arriving nor able to be removed to Rwanda. That would be a sub-population in the UK without legal status who would be here indefinitely, so they would for ever have no legal right to remain in the UK, but we would be required to provide them with asylum accommodation and support at great cost. That was the risk when it came to Rwanda and the IMA.

Q14 Dame Angela Eagle: You said something really interesting in your first comment: that you felt some of the people arriving on small boats are doing so because we are out of the Dublin system—in other words, because of Brexit. Were you surprised, perhaps, that in the withdrawal agreement there was no provision to try to opt into Dublin III and a half or whatever it might have been called?

Dr Peter Walsh: I was not surprised, because I think that was consistent with the attitude at the time on the part of the Government. I did note that they did decide not to pursue a similar kind of agreement, which hampered them in a certain sense because there was no longer a mechanism to return asylum seekers arriving by small boat to the EU. It is true that in the last five years or so that we were a part of Dublin, we were actually a net receiver of asylum seekers under the system: we received more than we sent out. That is for various reasons, including administrative ones. But yes, it was striking that a similar kind of agreement or remaining a part of the Dublin system was not pursued because that appeared to hamper the Government in that aim—namely, to remove people arriving without authorisation to the EU.

Q15 Dame Angela Eagle: Zoe, what is your view on the idea that has gained traction in certain areas of this debate—that the Human Rights Act and the ECHR are effectively preventing us from having a reasonable system, and that the only way to have an asylum system that works is to pull out of those international agreements?

Zoe Bantleman: As the witnesses in the previous session have already said, those are not the only international legal agreements by which we are bound. The UK has voluntarily agreed to be bound by a great many international legal agreements, including in relation to the rights of children, the convention on action against trafficking and the conventions on the rights of stateless persons. There are a whole host in addition to the refugee convention and the European convention on human rights.

One of the hallmarks of the new Government has been this new-found commitment towards our international legal obligations, and also restoring the UK's position as a leader in the international rules-based order, which all three of the previous Acts—the Safety of Rwanda Act, the Illegal Migration Act and the Nationality and Borders Act before it—eroded. I think it is fundamental to retain our commitment towards our international legal obligations. But there was also a case in the High Court in Belfast, brought by the Northern Ireland Human Rights Commission in relation to the Illegal Migration Act, that found that it was not only the convention on human rights that was breached by the Illegal Migration Act, but also the Windsor framework itself.

At a time when His Majesty's Government are trying to reset the relationship with Europe, it seems a very strange thing to do—to try to back out of our human rights obligations. Again, the Good Friday agreement and the trade and co-operation agreement with the European Union are both based on our compliance with the European convention on human rights.

Q16 Mr Forster: If I may, I will turn away from these historic strategic issues back to the wording in the Bill. I would welcome your thoughts on clauses 13, 14 and 16 about the new offences. How effective do you think they would be? Zoe, what do you think of the drafting? Dr Walsh, how commonly do you think they would be used given that so much of the preparation is done abroad?

Zoe Bantleman: The offences are drafted in quite broad terms and the defences are quite narrow. There is a real concern, particularly on behalf of the legal professions, as to what would constitute a defence. For example, one of the defences is where a person was

"acting on behalf of an organisation which—

(i) aims to assist asylum-seekers, and

(ii) does not charge for its services."

Would a legal aid firm charging the legal aid fund for services come within the scope of this defence? That is a real question.

We could also imagine the much more practical question of someone who is, for example, in Calais with their family member, and their family member wants to get on to a small boat and they are saying, "No, don't get on to the small boat. Look here—this is what the weather is going to be today" and they show them on their phone what the weather is going to be. That could be useful to that person in helping them to prepare for their journey to the UK, and it would be the collection, recording and viewing of that information. It is not clear that such a person would have a defence if they were to reach the UK by a safe route, if a safe route was available to them. Even though that was done in France rather than the UK, they could potentially be prosecuted once here because of the extraterritorial scope of the offences, subject of course to prosecutorial discretion.

There is a very large scope to the offences and the defences are potentially not sufficient and holistic enough to account for all situations in which persons should not be prosecuted and should not be criminalised for their behaviour.

Q17 Chris Murray: Dr Walsh, you said something fascinating that the Minister picked up on about the Dublin system and the driver of people getting on small boats. Could you say a little bit more about that? First, what is the evidence for that? Secondly, we know that people getting on to a small boat on the French side of the channel are part of a long stream of networks, illegal organisations and people fleeing. They are travelling through multiple countries. Could you give us a bit more detail on how those networks are functioning now, how they have evolved over the last couple of years in response to various conflicts and drivers, and the routes that people are taking?

Dr Peter Walsh: The Dublin system provided a mechanism for asylum seekers to be transferred between EU member states and prioritised the idea that people should have their claim processed in the first state in which they arrived. There are other things that the

decision can be based on—one might be having family members in the country; that could also be the basis for a transfer.

There is emerging evidence from when researchers have spoken with migrants in and around Calais. They ask them, "Why have you taken this dangerous journey to the UK?" They talk about family, the English language and perceptions of the UK as being safer. Often they have experienced harsh treatment at the hands of the French police. Increasingly, they specifically mention Dublin.

What we can infer from that is that these people have an outstanding or rejected claim—or claims, potentially in a number of EU member states, even though there are rules and processes to prevent that. They have exhausted what they view as the opportunity to receive a successful asylum claim in the EU. That leaves the UK. They understand that because the UK is no longer a part of Dublin, we are effectively not able to return them to the continent. That is fairly recent evidence we have found.

On the smuggling networks and how they work, one of the big challenges is that they operate transnationally, so they are beyond the jurisdiction of any single authority. That, by its very nature, makes enforcement more difficult because it requires quite close international co-operation, so the UK would be co-operating with agencies that operate under different legal frameworks, professional standards and norms and maybe even speak a different language. That challenge applies with particular force to the senior figures, who are often operating not only beyond the UK's and EU's jurisdictions but in countries where there is very limited international law enforcement co-operation with both the UK and the EU. I am thinking of countries such as Afghanistan, Syria and Iran.

More generally, the smuggling gangs have become more professionalised. They are very well resourced and are highly adaptable. There is a sense that law enforcement is constantly having to play catch-up. The gangs are decentralised, and there are quite small groups of, say, eight to 12 individuals, spread out across the continent, who are responsible for logistics—for example, storing equipment like motors and engines in Germany that are imported to Turkey from China and then transported in trucks to France. Those networks stretch out across the continent. That is why it is so hard for law enforcement to fight them.

Q18 Pete Wishart: I would like to pick up on that point, because it is very important. I think I saw somewhere that you commented that there is a lack of evidence about the long-term effects of prosecuting people smugglers, because they will just be displaced. It strikes me that given that there are no other means or safe routes to get to the UK and the people-smuggling gangs effectively have a monopoly on the irregular migration business, surely all they are going to do with all the legislation that the Government are bringing forward is adapt the models to accommodate what the Government are introducing. It always seems that they are a few steps ahead of Government.

Unless we tackle the demand, surely there will not be anything we can effectively do to tackle the illegal gangs, particularly if we are going to be cutting international aid budgets, which will exacerbate the problem and drive more people into the hands of the gangs. Ms Bantleman, you have written to the Government urging them to amend the good character guidance to ensure compliance with the UK's international obligations. Could you expand on that and elaborate on what you are intending from the Government? You are right to remind the Government of the range of their commitments and international obligations. I will come to you first, Dr Walsh.

Dr Peter Walsh: It is true that there is a real lack of evidence on what the likely impact of specific policies to disrupt smuggling networks will be, but the policies could assist in disrupting smuggling activities. If you invest more resources in enforcement and agencies have greater power of seizure, search, arrest and investigation, then you would expect that more smugglers would be brought to justice. The bigger question for me is: will that reduce people travelling in small boats? There is the separate question of whether this will eliminate the market for smuggling.

What we do know is that a lot of people are willing to pay a lot of money for the services that smugglers provide. If the effect of the policies is to disrupt smuggling operations, that could conceivably raise the cost of smuggling—a cost that would be passed on to migrants. It may be the case that some are priced out at the margins, but I suspect that demand is fairly inelastic. Even with an increase in price, people will still be willing to pay.

Another challenge is the people most directly involved in smuggling operations on the ground—the people who are tasked with getting the migrants to shore, the boats into the water and the migrants into the boats. It does not require substantial skill, training or investment to do that job. You can apprehend those individuals, and that requires substantial resource, but they can quickly be replaced. That is why it has been described as being like whack-a-mole. I think that is one of the real challenges.

Zoe Bantleman: I would like to add to that point, before I address the second question. I completely agree with what Peter says about how the most fundamental challenge in breaking the business model of smugglers is that, simply, smuggling will exist for as long as there is demand. There will be demand for it as long as there are people seeking safety. For as long as we fail to have accessible, safe, complementary routes for people to arrive here, and for as long as carriers are too fearful to allow people on to safe trains, ferries and planes to the UK, people will feel that they have no choice but to risk their lives, their savings and their families' savings on dangerous journeys.

The focus of the Bill is not on tackling trafficking or the traffickers, or on protecting the victims of trafficking; it casts its net much wider. It is really about tackling those who assist others in arriving here, as well as those who arrive here themselves.

That leads me on to the second point, which is in relation to the good character guidance. There was a recent change, on the day of Second Reading, that also resulted in a change to the good character guidance, which is a statutory requirement that individuals must meet in order to become British citizens. The guidance says that anyone who enters irregularly—it actually uses the word "illegal", which I have substituted with

"irregularly"—shall "normally" not have their application for British citizenship accepted, no matter how much time has passed.

Fundamentally, article 31 of the refugee convention says that individuals should be immune from penalties. It is a protective clause. It is aimed at ensuring that exactly the kind of person who does not have the time or is not able to acquire the appropriate documentation, who has a very short-term stopover in another country on the way to the UK, and who is allowed to choose their country of safety can come here and is immune from penalties. There is also an obligation under the refugee convention to facilitate the naturalisation of refugees.

We also mentioned many other conventions, including the convention on the elimination of discrimination against women, and the convention on the rights of the child. Children have a right to obtain citizenship, so stateless children should not be barred from obtaining British citizenship. In addition, they should not be held accountable for things that were outside their control. Children placed on small boats may have had no control or understanding of their journey to the UK, so arriving here in a way outside their control, in a way that the Government consider to be illegal but is not illegal under international law, is not a reason for them to be barred from citizenship. That is the substance of what we have said.

The Chair: This may be the last question, unless anybody else has indicated that they wish to ask one.

Margaret Mullane (Dagenham and Rainham) (Lab): In his evidence, Enver Solomon spoke about the "meltdown" of the immigration system—that it is chaotic. I think we all heard that. I am on the Home Affairs Committee, and we are also looking into that. Quite a few people from different groups have given evidence, and their evidence was slightly more optimistic than what has been said today.

We are all in mass communication, so I think word will get around when this starts rolling out. If the system had been chaotic and everything had ground to a halt, the gangmasters running the boats would have got to grips with it as time went on, and that would have seeped through. It therefore would not necessarily be the case that people would want to risk the boats and the gangs.

Dr Peter Walsh: On communication, many of these individuals who are travelling receive information from their handlers, agents and smugglers. Sometimes it comes from people who have already made the trip and are in the UK, but that has the effect of emboldening them. I am not sure what the prospects would be for them learning about the reality of the UK's asylum system more broadly. We see that knowledge of the system—whether it is chaotic or functioning well—is always filtered through their agents, smugglers, handlers and those they know in the community who are making the trip or have already successfully made it.

The Chair: We have two quick questions to squeeze in.

Q19 Tom Hayes: We hear that, because the so-called Rwanda deterrent never actually happened, it is hard to assess whether or not it was a deterrent, but in a Q&A you published on 25 July, Dr Walsh, you said:

"The deterrent impact of the policy would likely have depended on the number of people sent to Rwanda."

You estimated the probability of people crossing the channel in a small boat being sent to Rwanda to be about 1% to 2%.

You also said:

"There is no evidence that political discussions surrounding the Rwanda policy deterred small boat arrivals."

In fact, from the day the policy was announced to the day it was scrapped, we saw 84,000 people cross the channel. Do you want to say anything about the efficacy of the so-called deterrent? Relatedly, do you agree that it is hard to make emphatic assessments of the fiscal burden of immigration owing to the quality of the available data?

Dr Peter Walsh: Yes, I would agree with that last point.

The Rwanda policy was never implemented, so it would be unfair to say that it did not have a deterrent effect. Policies of that kind typically have the bulk of their effect once they have been implemented. I cannot remember the source for the 1% to 2% figure. This is a somewhat old research paper, but at the time it was the best estimate we could point to. It was not an estimate that I or colleagues made. Can you see what the source is?

Tom Hayes: I can. It says:

"If only a few hundred asylum seekers were sent to Rwanda each year (as suggested by the Deputy Prime Minister and the Home Office's modelling) and unauthorised arrivals had continued at rates similar to those seen in 2022 and 2023"—

the paper was published in 2024—

"then the probability of a person crossing the Channel in a small boat being sent to Rwanda would have been small—around 1-2%."

Dr Peter Walsh: I now recall the Home Office's modelling, and it was subject to a whole range of caveats. The Home Office was actually quite cautious about the estimates. That was the best available figure it had at the time. It was in part based on Rwanda's capacity to process claims. The number could have gone up, but we never found out.

The Chair: Can I quickly get Kenneth's question in?

Q20 Kenneth Stevenson: We have heard from Dr Walsh about how the small gangs operate. They are very difficult to work against. What engagement have you had to better understand the Government's position? Would you outline your evidence directing us to an alternative approach?

It has been very interesting to hear about what does not deter people from coming across, but it would also be very interesting to hear about anything that does deter them. Could you outline that too?

The Chair: There is less than a minute left, and I wonder whether Zoe wants to quickly come in too.

Dr Peter Walsh: Strong deterrents do not necessarily operate on a psychological level. They include the physical interception of boats in the water, and the case of Australia demonstrates that quite clearly. It had an offshore processing plan, but the huge decrease in numbers arriving by unauthorised boats happened once Australia was physically intercepting those boats in the water and returning them to the countries of departure.

Kenneth Stevenson: Can you answer my original question about the engagement you have had with the Government? You are saying that small gangs are very flexible, but obviously the Government are saying that they are going after those gangs—

The Chair: Order. That brings us to the end of the time allocated for the Committee to ask questions. I thank our witnesses on behalf of the Committee for their evidence.

Examination of Witness

Dame Rachel de Souza gave evidence.

12.40 pm

The Chair: We will now hear oral evidence from the Children's Commissioner for England. Once again, we must stick to the timings in the programme order. We have until 1 pm for this panel. Could the witness please introduce herself for the record?

Dame Rachel de Souza: Good afternoon. I am Rachel de Souza. I am the independent Children's Commissioner for England. It is my job to protect and promote the rights of children. Since I took up the role, I have made working with illegal immigrant children who arrive in Kent one of my top priorities. I go down to the Kent intake unit. I talk to all the children who are in hotels. My independent advocacy body has supported hundreds of these young people. I have used my entry powers to go in and look at their situation, and I have used my data powers to track safeguarding issues. It has been really thoroughgoing work for the past four years.

Q21 Dame Angela Eagle: What is your general opinion of the changes that would be introduced to the current immigration law structures with the repeal of the Safety of Rwanda Act and the vast majority of the Illegal Migration Act? What is your opinion on strengthening the powers of the Border Security Command, which are a central part of the Bill?

Dame Rachel de Souza: I do not want to see any child crossing the channel in a small boat. I have sat in those small boats myself. I have talked to children who have come across on them. I have seen eight-year-olds, blind children and children with Down's syndrome come across on them. The crossings are dangerous. One case that sticks in my mind is that of a young Iranian lad who saw his parents killed in front of him. He was taken by smugglers and did not know where he was going, but he came across on a small boat. Anything to stop these wicked traffickers is good in my book, as long as we are protecting and safeguarding children.

You will know that I was very vocal about the Illegal Migration Act, particularly the bits that conflicted with the Children Act 1989. When a child is on this soil, up to the age of 18, the Children Act has authority over them. I was very worried about the Home Office accommodating children, and I am pleased to see that has now been changed. Every Home Office official was working hard to do their best by those children, but the Home Office accommodation and the hotel accommodation were not suitable. Children were languishing without proper safeguarding in inappropriate places. Children's social care must look after unaccompanied children, so I am pleased to see that change.

From a children's perspective, I am pleased to see the Rwanda Act repealed. Children told me that it would not have stopped them coming; they were just going to disappear at 18. It would have ended up putting them at more risk. I had concerns about that. I also had concerns about children who had been settled here for a number of years then, at 18, being liable to be moved to Rwanda, so I am pleased to see that changed.

In general, I am really supportive of this Bill. There are some things that I would like to see it go further on, and I do have some concerns, but in general I am very supportive.

Q22 Mr Forster: What are the things that you would like to see the Bill go further on? We just heard from the legal director at the Immigration Law Practitioners' Association that they have some concerns at least about the Government's rhetoric, if not some of their actions, against the international law, particularly on children. Could you comment on that as well?

Dame Rachel de Souza: Because I see so many of these children and work with them directly, I am often thinking practically about what their lives are like and how to ensure that they are okay, so I tend to come at your questions from that approach. One of the things that I am worried about is the potential for getting the scientific age assessment wrong.

There was a fantastic debate in the other House, where Lord Winston and others talked about the British Dental Association and the lack of clarity and slight vagueness around age assessment procedures. What I will say is that the social work team down at the Kent intake unit are fantastic and they have developed a strong approach to and knowledge about how to get those age assessment decisions right, with an understanding of school systems and other things about young people. I think we need to be really careful on the age assessment side.

You know that I am also going to be worried about safe and legal routes. Let me give you two examples two young ambassadors out of my large group. One is from Ukraine. She came under the Ukraine scheme, managed to complete her Ukrainian education and her UK education at the same time, and is going to King's College. She has had nothing but support. The other is from South Sudan and, with no safe and legal route, came as an illegal immigrant. Female genital mutilation was an issue; there were some really serious issues. She found it hard to find somewhere to live and hard to get a job. She is now at Oxford University, because we have supported her and she is brilliant. Those are just two completely contrasting cases.

I stood and welcomed off the boat the first child who came from Afghanistan, who spent his nights weeping because he did not know whether his parents were alive. There is that safe and legal routes issue, particularly for children we know are coming from war-torn areas—we know that they are coming. We really need to think about that and think about support for them. That perhaps answers your tone question as well.

Q23 Chris Murray: We heard from the previous panels about how the Illegal Migration Act and the Rwanda Act caused wholesale dysfunction in the immigration system and especially in asylum. I want to ask you

[Chris Murray]

about the impact that that dysfunction had on children. As we were moving unaccompanied asylum-seeking children from Kent around the rest of the UK, how dysfunctional was that system? What was it like for local authorities that were trying to support them and the local communities? They have statutory obligations about child protection.

Dame Rachel de Souza: Down in Kent, because needs must, hotels were set up, so I visited the hotels that children were in. The situation was wholly inappropriate. Many children were languishing there for months, without English teaching. Kent county council was doing its best. Some of the best provision that I saw for children who were just arriving was put on by Kent, which had managed to get school going and get interpreters in, but it was overwhelmed.

What I will say, to pay tribute to local authorities around the country, is that whenever there was a very young child or a disabled child, they would step up and help. But it was hard to get the national transfer scheme going and the children were confused by it as well. The Hghland council offered a range of places to some of the children, and they were like, "Where is the highlands and what are we going to do there?" It felt discombobulated at best. It was really tricky.

Of course, let us not forget that a lot of those children were older teenagers, and a lot of the provision that they were going to was not care, but a room in a house with all sorts of other people—teenagers and older people. They were left to fend for themselves, which was incredibly disorientating. We have a problem with 16 and 17-year-olds in the care system. There was a massive stretch on social care. Every director of children's social care who I spoke to said that it is a massive stretch on their budgets, and that they do not know what to do with those children.

I think we could be more innovative. Again, there is massive good will out there in the country. We should be looking at specialist foster care, and not sticking 17-year-olds in rooms in houses on their own. There are so many things we could be doing to try to make this better, such as settling children in communities with proper language teaching.

The No.1 thing that children tell me that they want, given that they are here, is to learn—to be educated—so that they can function well. For me, particularly with some of the children who I have seen, they do not in any way mirror the stuff that we read in the media about freeloading—coming here for whatever. Most of them are really serious cases, and given that they are here, they want to try to learn and be good productive members of our communities. There is much that we can do.

Q24 Pete Wishart: I commend you for the work you do. I think what you do is amazing, and I pay tribute to that. You are absolutely right to raise some of the issues about the age assessment procedures, and their almost quasi-scientific applications. You are right to reference the debate in the House of Lords, because I think it captured that quite well. Why do you think there is an increasing trend to try to label quite obvious children or teenagers as adults?

We are keeping parts of NABA, so that will be a feature of the Bill. There are concerns about modern slavery and the impact on children with that. Are there any amendments that we could bring to the Bill that would help to deal with that and meet some of those concerns, so that we can get to a much better place with how we deal with children in our asylum system?

Dame Rachel de Souza: Obviously, both of those issues are concerns of mine—age assessment and the modern slavery provisions not being allowed to be applied. On age assessment, it is important that we know how old children are. I have seen 14-year-olds in hostels with 25-year-olds, which is totally inappropriate. I have seen girls who say that they are not 18 be age assessed as 18 and put in adult institutions with adult men. We do not want people masquerading as children to be put in with younger children. We need to do everything we can to determine age.

The technology around scientific age assessment is going to be difficult, not least because when you are dealing with an international population—as Lord Winston talked about—it is really difficult to be precise. Being precise matters. When children arrive in Kent, they get their new clothes, then if they are sick, they are put into a shipping container until they are not sick any more. They maybe then have to sleep a bit on a bench, and then they are age assessed. That age assessment is the most important thing about the rest of their journey here. If that goes wrong, that is it; if you get that wrong, they are an adult. It is a really important and tricky thing, and it is often not supported.

There are things we can do—I always look for solutions. Maybe we ought to be saying, "This is obviously a child. This is obviously an adult." But there is a group where there are questions and perhaps we should be thinking about housing people in that group and spending a bit more time to work out how old they are and try to get the evidence, rather than making these cut-and-dry decisions that will change people's lives. As I said, I found a 14-year-old boy in Luton who was there for years with 25-year-olds and was really upset.

On the modern slavery provisions, all I would say—I hope this is helpful—is that I have seen with my own eyes a 16-year-old Eritrean girl arriving at Kent with an older man who was her boyfriend. She obviously said, "It's fine—I'm 16. We can come in." She had lost her parents. It was obviously going to be trafficking. We need parts of the Bill to pick that up. That is real, so we need to be really careful about these things.

The Chair: We have only two minutes left, and three questions to go.

Q25 Jo White: I will be quick. Thank you for the work that you do. My biggest concern is those children who come into the UK who we do not even know are coming in, because it is hidden. They are clearly victims of modern slavery or child sexual exploitation. It is important, as you said just now, that we stop the gangs that are bringing them across. How confident are you that the new Border Security Commander with his anti-terrorism powers will be able to track those gangs down and smash them?

Dame Rachel de Souza: That is the first question I asked the National Crime Agency when I came into the role. I asked, "Could you find every child in this country?"

I was told that, "With enough resource, we could pretty much do it, apart from some of the Vietnamese children who are trafficked into cannabis factories and things like that." With resource, and with this new Border Security Command, we will get a lot nearer, and we need to do that.

Q26 Tom Hayes: Thank you for all of your work. In April 2023, you wrote to the then Home Secretary requesting information about children accommodated in hotels. Seven months later, when you received the information, you then said that it was seven months past your deadline and that the quality of the information itself was deeply troubling. Can you comment on how difficult or easy it was for you to discharge your statutory duties as Children's Commissioner when working with the last Government to safeguard children?

Dame Rachel de Souza: The Home Office was the only Department that failed to answer my data request in time and that gave me imperfect data, but I did not stop and I kept going. I have to say: it is much better now. I was able to speak to and did have access to Ministers, and I was always able to make my case. I did not get that information in a timely manner, but I did get that information in the end. I am worried about what has happened to those children.

The data we were after was safeguarding data that showed all the concerns, and the reason I asked for it was because I knew that the safeguarding in the hotels was not as it should be. We got the data on children who had been victims of attempted organ harvesting, rape and various other things, as well as the number of children who were missing. We still do not know where many of those children are, and that is not good enough. The whole tone has changed, and I hope that the Government will still want to stop the small boats, while also being much more pro-children.

The Chair: We will squeeze in one last question.

Q27 Becky Gittins (Clwyd East) (Lab): We heard earlier about the Rwanda Act and the IMA, and their impact on the massive escalation in the use of asylum hotels. Do you believe that it was actually our children and young people who were disadvantaged the most? You have talked a lot about not wanting to see a single child come across the channel in small boats, but we also need to focus on what is happening when the asylum hotels are unsuitable. When they are unsuitable, those young people are much more vulnerable to people outside of those asylum hotels—criminals who operate in the UK and seek to do them harm.

Dame Rachel de Souza: Absolutely. The number of tales and stories from children about how virtually the entire rest of the hotel had been picked up and driven off by gangs was really not good. They would just walk outside and be picked up, and they would go. Some of those children made their way back to Kent because they were being exploited so badly. It was really terrible. There were not proper safeguards.

One of the reasons I do not want the Home Office to accommodate children is that, while it is great at many things, it should have nothing to do with children. Children's social care should be looking after children. The Home Office was never able to put in appropriate safeguarding. Despite its best efforts, it did not manage to structure children's days. It did not have the personnel to deal with this.

Children were going missing regularly; some are still missing. Kids were there for months who were not learning English. What were they doing? Whereas, when they went straight into Kent's care, they were put in school, learning English, learning what it is like to be in England, learning to understand their rights and getting used to the country they were in, but I fear that many of those children came to terrible ends—

The Chair: Order. I am afraid that brings us to the end of the time allocated and allotted for the Committee to ask questions. I thank the witness for her evidence.

1 pm

The Chair adjourned the Committee without Question put (Standing Order No.88).

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Second Sitting

Thursday 27 February 2025

(Afternoon)

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not later than

Monday 3 March 2025

The Committee consisted of the following Members:

Chairs: † Dawn Butler, Dame Siobhain McDonagh, Dr Andrew Murrison, Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Witnesses

Assistant Chief Constable Jim Pearce, NPCC Lead for Organised Immigration Crime, National Police Chiefs' Council

Rob Jones, Director General, National Crime Agency

Sarah Dineley, Deputy Chief Crown Prosecutor, Crown Prosecution Service

Tony Smith, former Director General, UK Border Force

Alp Mehmet, Chairman, Migration Watch UK

Karl Williams, Research Director, Centre for Policy Studies

David Coleman, Emeritus Professor of Demography, University of Oxford

Professor Brian Bell, Chair of the Migration Advisory Panel, Home Office

Dame Angela Eagle, Minister for Border Security and Asylum, Home Office

Seema Malhotra, Minister for Migration and Citizenship, Home Office

Public Bill Committee

Thursday 27 February 2025

(Afternoon)

[Dawn Butler *in the Chair*]

Border Security, Asylum and Immigration Bill

2 pm

The Chair: Before we hear from our witnesses, do any Members wish to make a declaration of interests in connection with the Bill? No. In that case, we will now hear oral evidence from the National Police Chiefs' Council, the National Crime Agency and the Crown Prosecution Service.

Examination of Witnesses

Assistant Chief Constable Jim Pearce, Sarah Dineley and Rob Jones gave evidence.

2.1 pm

The Chair: We have until 2.40 pm for this panel. Will the witnesses please introduce themselves briefly for the record?

Rob Jones: I am Rob Jones, the director general of operations for the National Crime Agency.

Sarah Dineley: My name is Sarah Dineley, and I am head of international at the Crown Prosecution Service and the national CPS lead on organised immigration crime.

Jim Pearce: Good afternoon. I am Assistant Chief Constable Jim Pearce, the National Police Chiefs' Council lead on organised immigration crime.

Q28 Matt Vickers (Stockton West) (Con): What is the single biggest thing the Government could be doing to drive down illegal arrivals, and what could we be doing to aid your agency in doing its job?

Rob Jones: There is not one thing that you can do to tackle these problems; you need a range of measures that concurrently bear down on them. The problem that I focus on is the organised crime element, which needs concurrent effort in a number of areas, designed to undermine the business model that supports organised immigration crime. That means tackling illicit finance; the materials that are used in smuggling attempts and the supply chain that supports them; the high-value targets based overseas who are involved in supplying materials and moving migrants; and those who are closer, in near-Europe, who are involved in it. From an organised crime perspective, it is about concurrent pressure in a number of areas to make the incentives for being involved in organised immigration crime no longer viable.

Jim Pearce: From my perspective, you need to look at this at both ends of the scale. What we are probably thinking about at the moment is prosecution and putting people through the courts. Actually, we know that, in other thematic serious and organised crime, prevention and early intervention work just as effectively. We would call that disruption. Disrupting the patterns, and the ways of working that Rob just described, earlier would obviously prevent victims from becoming victims in the end. It is the 4P approach, which I am sure most of you have heard of. It is about working from neighbourhood policing, with a local factor, in order to gather intelligence, and putting that into the system all the way up through our regional crime units and into the National Crime Agency and high-end prosecution, international and online.

Sarah Dineley: I concur with my two colleagues. I do not believe that there is one single measure that would impact so significantly that it would reduce migrant crossings to zero. It is about having a suite of measures—whether they are prosecutorial or disruptive in nature—that taken together will allow the prosecution and law enforcement teams to work together to tackle the gangs. It is always important to remember that a criminal justice outcome is not necessarily the right outcome; there are other outcomes that can tackle organised immigration crime and gangs effectively.

Q29 Matt Vickers: Are there further specific measures to strengthen the hand of your agency that you would like to see in the Bill?

Sarah Dineley: From a prosecution point of view, I would say it is a matter for the legislators to decide what legislation they feel is appropriate. The Bill as drafted does add to the toolkit of measures we have available.

Rob Jones: From my perspective, the measures that make the most difference and are the most significant in tackling the organised crime element are on preparatory acts, in clauses 13 to 16. They give us the ability to be pre-emptive, proactive and very disruptive, giving us something we have not had before—the ability to act before people actually commit an offence under section 25 of the Immigration Act 1971, which is the facilitation offence. That is an important opportunity, because we are driven by trying to reduce the highest-risk crossings and trying to prevent crossings. We would not choose to react to crossings and then investigate; we want to act as quickly as we can. These measures create the ability to do that—to go much sooner, have more impact, and build momentum, so that the people who are behind these attempts really start to feel the pressure.

Jim Pearce: In addition, the Bill provides the opportunity to increase clarity and focus, with the ability to gain information and intelligence through the seizure of electronic devices, for example. I know this is controversial. Being able to do that with a very clear power to search, seize and then download, as opposed to potentially—I am not saying this has happened—misusing existing powers, will give clarity because you can say to an operational police officer, immigration officer, or a member of the National Crime Agency, "This is what you use in order to get that defined intelligence at the end."

Q30 Matt Vickers: What concerns, if any, do you have about the Bill as drafted?

Jim Pearce: From a policing point of view, there would be insurance around safeguarding. For the electronic devices, for example, I understand the benefits that would come from the counter-terrorism-style powers to be able to seize electronic devices. I am confident that

that is managed through the measures in place around reasonable suspicion and having to get the advice from a senior officer. It is about operationalising that, putting it into practice, and making sure that our staff understand through education and training. Any change in legislation requires training, finance and input. Those are the types of things that I would be thinking about.

Rob Jones: I agree. It is about the professional development and the guidance for officers who are using new tactics and new tools against this threat, and making sure that we are ready to go with very clear guidance on how officers should look to engage the new offences in the Bill.

Sarah Dineley: Clause 17 and one of the subsections of clause 18 create extraterritorial jurisdiction for the offences, and it would be remiss of me not to highlight some of the challenges that that will bring. We have a system of judicial co-operation, something called mutual legal assistance, whereby we can obtain intelligence and evidence from our overseas counterparts at both judicial and law enforcement level. We work very hard on building those relationships to collaborate.

To that end, the Crown Prosecution Service has a network of liaison prosecutors based across the world. Specifically, we have liaison prosecutors based in the major organised immigration crime countries—Spain, Italy, Turkey, Germany, Netherlands and Belgium—and two in France, one of whom is actually a dedicated organised immigration crime liaison prosecutor. We use them to foster and build those relationships so that we have that reciprocal exchange of information where required. That is not to say that is without its challenges. I flag that as something that we will continue to work on, but it has challenges.

Q31 The Minister for Border Security and Asylum (Dame Angela Eagle): Starting with Rob Jones, what do the witnesses think the Bill does for them operationally?

Rob Jones: It gives us the opportunity to make the most of the intelligence dividend that we have invested in tackling the threat. We have a good understanding of the people behind small boats crossings in particular, the supply of materials, the facilitation from near-Europe and further afield, but we want momentum and greater agility so that when we are aware that a crossing is being prepared—when materials are moving—we can act pre-emptively and proactively.

As I said earlier, we do not want to be investigating after thousands of people have arrived, and trying to put together very complex investigations that may involve months of covert surveillance and eavesdropping—a whole range of covert tactics—to get us over the line for a charging decision for a section 25 offence. The new offences give us the opportunity to act when we see that jigsaw puzzle coming together, to go to the CPS when we reach a tipping point and to go earlier than we can now. That means that we can pull more people through that system, deliver justice more quickly and be more disruptive in tackling the threat. That is a big step forward. That is lacking in the current toolbox to operationalise the intelligence we have.

Sarah Dineley: The endangerment offence potentially fills a gap between the current section 24 and 25 provisions. Each boat has a pilot—someone steering it across the channel—who, by the very nature and condition of those boats, the overcrowding, the lack of lifesaving equipment, and so on, puts everyone in that boat in danger of losing their life. We welcome that clause and will draft guidance on how it can be interpreted in terms of practical application.

Jim Pearce: Police officers mainly deal with the inland clandestine events as opposed to the small boats. From my point of view, it would be, correctly, common practice to use schedule 2(17) of the Immigration Act 1971 to detain migrants and then pass them into the immigration system. On searches after that, yes, there are powers in the Police and Criminal Evidence Act 1984 after that provision under section 32, but that is mainly to safeguard; it is not to seize evidence.

On Rob's point about early intervention and intelligence gathering, the only way you gather intelligence is through what people tell you and what electronic devices give up. The Bill gives police officers the ability to gather intelligence through defined and clear powers in legislation, so that they are not misusing a PACE power, an operational procedure or anything else. That would be the biggest change for policing.

Q32 Dame Angela Eagle: We often hear that organised immigration crime is very lucrative, well established and transnational, and that there is therefore no point in doing a lot about it. What is your answer to that?

Rob Jones: You could say that about all serious organised crime. Where do you go from there? I do not agree with that view. It is definitely transnational and complicated, but it is a relatively new serious organised crime threat, and it is not too late to stop it. In 2018, there were a few hundred people coming on small boats. There were 36,000 last year. We need to unravel the conditions that have allowed that to happen, and this legislation will help with that. I do not take the view that you cannot stop it.

There will always be people attempting organised immigration crime, but this element of it—small boats—is relatively new. There are very specific things that organised crime groups involved in it need to do. They need access to very specific materials—otherwise they cannot move the numbers that they attempt to move—and they need to be able to operate using materials that are lawfully obtained, albeit for criminal purposes. This attacks that business model because we can pursue the dual-use materials with more vigour and have more impact. It is challenging, and it is a different challenge from drugs and other threats, but it is there to be dealt with. It is a very public manifestation of the OIC threat that has always been there. This part of it relies on a very specific business model that we can attack.

Sarah Dineley: The follow-on point from that, and one that you raised, is that people are making a lot of money out of this, so the illicit finance piece is really important. These new clauses actually give us more on which to hang illicit finance investigations. There is a lot of work going on in the illicit finance sphere; in particular, and most recent, the illicit finance taskforce between the UK and Italy, was set up specifically to look at the profits being made by the people who are preying on other people's misery.

Jim Pearce: It has been said already but I want to reinforce the point about organised crime gangs being involved in polycriminality. Organised immigration crime

is one part, but so are modern slavery, serious acquisitive crime and drug running. That is felt in local communities across the whole country. In my own force area of Devon and Cornwall, you would think that modern slavery and organised immigration crime do not exist, but we have a number of investigations and intelligence leads being developed; they are being looked at by both our regional crime units and members of Rob's team. This exists everywhere across the country. As I say, if you are prepared to effectively smuggle people into the country, or at least to facilitate that, you are prepared to get involved in very serious things indeed.

Q33 Mr Will Forster (Woking) (LD): I want to look at clauses 13 to 17 and what the Crown Prosecution Service thinks of them, so this question is more directed at you, Sarah. Considering their application both inside and outside the UK, what do you think the chances of successful prosecution are? How likely do you think the CPS is to take this up? We heard earlier today that some are concerned about how wide the powers in clauses 13 to 16 could be. We were told this morning that, if I was in Calais and someone asked me, "What's the weather like today?", technically I would have committed a crime under these clauses. What is your view of that?

Sarah Dineley: I will deal with the second point first, as it is probably the easiest and it flows into the first. In relation to clauses 13 to 16, with any new legislation, the Crown Prosecution Service always publishes guidance on how it is to be interpreted. Certainly, the example that you gave about asking what the weather is like in Dover when you are stood in Calais would not fall within the guidance as meeting the evidential test. Of course, it is not just about an evidential test being met, but a public interest test as well. Our guidance always deals with that specific question of whether it is in the public interest, so that prosecutors can do that balancing exercise and ask, "Are there factors that weigh in favour of prosecution? Are there factors that tend away from prosecution?" They want to come to a decision that is compliant with our code for Crown prosecutors, so it is a mixture of guidance and application of the code that hopefully gets us to the right conclusion.

Going back to your first point, I mentioned that we have mutual legal assistance and that we can issue what are called international letters of request. They require the recipient country to execute the action, or to provide the information that we have asked for. One of the problems is that there has to be something called dual criminality—there has to be the equivalent offence in the country that we are making the request to, and there are some gaps across Europe in establishing dual criminality for all the immigration offences that we currently have on our books. However, we are confident that there are reciprocal laws in the major OIC countries in Europe to allow us to make those requests for information under mutual legal assistance. We are aided by the network of prosecutors based abroad, which I mentioned. We also have Eurojust and the joint investigation teams run out of Eurojust. We are well versed in working internationally and with the measures that we can deploy to make sure that we build a strong evidential case.

Q34 Mike Tapp (Dover and Deal) (Lab): I should declare that I have worked for the National Crime Agency in a counter-terror role.

We have talked a lot about the upstream side, which publicly people are well aware of. Is there a significant domestic angle here? Are we confident that we have a sound intelligence picture—as much as we can? Are there crossovers with other crime? Does the Bill help us to disrupt and arrest people in this country?

Rob Jones: I will come back on that first. There is a footprint in the UK for organised immigration crime. The footprint for the small boats crossings has typically been driven by Belgium, Germany, Turkey and further afield, with Iraqi Kurdish and Afghan groups. As more and more people have successfully exploited that route, however, they put down ties, they get involved in criminality and they know it has worked for them, so that drives the problem. There are organised crime groups in the UK that we are targeting. Some of our most significant cases to date have involved a footprint in the UK.

When we look at those groups and what it took to bring them to justice, we have either had to extradite them to another country following a judicial investigation, or we have done very complex covert investigations for many months. This helps with that issue, because when we have got good evidence from covert tactics—this was my earlier point—we are able to go earlier with it. The majority of the criminality that drives the small boats element, however, is based overseas. We have a good intelligence picture through OIC, which has improved dramatically since 2015 when we started targeting this, when the crisis first started.

Jim Pearce: I have a follow-on from policing. I probably have two points to make. First, tomorrow you will start hearing national media on interventions across the country, which are termed Operation or Op Mille—police interventions to do with cannabis farms. A lot of the intelligence linked to that particular operation involves workers who have been brought in illegally from abroad, and all those disruptions will be from across the whole country. That might just bring this to life.

The second point I want to make is on legislation changes, which you just asked about. The two changes—well, there are more than two, but the ones I particularly want to focus on—relate to serious crime prevention orders and the ability of law enforcement, which is the police, the NCA and of course the CPS, to apply for interim orders, especially those on acquittal. Serious crime prevention orders are probably a tool that is underused at the moment. We are keen to push into that space moving forward.

Sarah Dineley: To put that into context, at the moment there are effectively two types of serious crime prevention order: one is imposed on conviction, and between 2011 and 2022, we had 1,057; the other is what we call the stand-alone serious crime prevention orders. Those are made before any charges are brought and they are heard in the High Court. To date, there have only been two applications, one of which was successful. The introduction of this new serious crime prevention order does fill a massive gap in that restrictive order.

Rob Jones: I agree with that, and I welcome those measures. There is a similar regime for sexual offences, which allows control measures for people who are suspected of offences. That has been very successful. We welcome that.

Q35 Pete Wishart (Perth and Kinross-shire) (SNP): I can sense your enthusiasm for the new criminal clauses in the Bill. To a certain degree, I get it, but it is going to keep you busy, is it not? There will be a lot of asylum seekers caught up in the various provisions in clauses 13 to 18. I am wondering what the proportion of ordinary asylum seekers will be compared with members of gangs and people who operate this business.

Mr Jones, I am struck by your confidence that you are going to end this. I think you made a comparison with illegal drugs. You are probably right to make that comparison—they are both demand-led and operated by illegal gangs—but we have not been particularly successful with illegal drugs over the course of the past decade.

Lastly, Ms Dineley, you said something about pilots of the boats. I hope your intelligence is telling you exactly the people who are piloting the boats. It is not the gang members or people associated with this crime. It is ordinary asylum seekers who cannot afford the fare or are forced into piloting these boats. I hope that when approaching the new powers in the clauses you will be proportionate, you will know what is going on and will not endlessly prosecute innocent people who are just asylum seekers fleeing oppression and warfare.

Rob Jones: We are not looking to pursue asylum seekers who are not involved in serious and organised crime. That is not what we do. This is about tackling serious and organised crime and being as effective as we can be in doing that. There are examples of people involved in piloting boats who are connected to the organised crime groups.

Q36 Pete Wishart: Would you be able to supply the Committee with evidence of that?

Rob Jones: People have been convicted of those offences, so that has passed an evidential test. Our role is undermining a specific element of the business model. It is not like drugs trafficking. Drugs trafficking has been established since the Misuse of Drugs Act 1971. It is a lot older, a lot more established and involves billions of pounds and tens of thousands of people internationally, if not more. The small boats threat is different from that. It is the highest harm manifestation of organised immigration crime. I have not said that I will stop organised immigration crime. I said that we will tackle the small boats business model and then continue to tackle the OIC threat, as we have been doing since 2015.

Sarah Dineley: In relation to asylum seekers piloting boats, under the Immigration Act 1971 we have two offences: sections 24 and 25—section 25 being the facilitating offence. Our guidance is very clear on when we charge the section 25 facilitation offence. It is very clear from our guidance that it is not just about having a hand on the tiller; it is about being part of a management chain and being part of the organisation of that crossing.

You mentioned people who are coerced into taking the tiller. We would look under section 24—arriving illegally—on whether an offence of duress would be sustained. That would form part of our considerations on whether evidentially it is made out and, secondly, whether it is in the public interest to prosecute that person. We do look at the whole set of circumstances, and our guidance sets out in very clear terms what is required, both in terms of the evidential test and the public interest test—that balancing exercise. We also have specific guidance in relation to how we treat refugees and asylum seekers. Again, that plays into the charging decision equation, as I will put it, and the balancing exercise.

Jim Pearce: I am not sure what I could add to my colleagues' comments.

Q37 Pete Wishart: You could say what proportion of asylum seekers compared with gang members you think you will secure with the new powers under the Bill?

Jim Pearce: I am not sure I am going to be able to answer that question, but I can tell you that for 12 months since November 2023 the police were involved with just under 2,000 inland clandestine incidents. What I mean by that are, for example, relevant persons who have been found in the back of an HGV who walk into police stations declaring asylum or those who have been left at petrol stations and are then picked up by police patrols and brought in. There were 2,000 incidents and nearly 3,000 persons. Obviously, they are not all being arrested for organised immigration crime offences, because they have not necessarily committed them, and my colleague here has spoken about the aggravating factors that sit within section 24, which are the key points to prove. As I say, that is probably all I could offer you at this time.

Sarah Dineley: Perhaps I could put things into some sort of numerical context. Last year, we had 37,000 arrivals in the UK through small boats crossings alone, and, in the period from April to September last year, there were only 250 prosecutions.

Pete Wishart: And were they gang members?

Sarah Dineley: I cannot break that down, but that would include gang members. That is the total number of prosecutions.

Q38 Kenneth Stevenson (Airdrie and Shotts) (Lab): This might be a lag question, which is quite engineering-based, but you mentioned proactive, pre-emptive and disruptive, and those are engineering terms as well. I am really interested in how they react and would work within the Bill, how they would help the Bill and how the Bill would help them. Could you give us some idea of that?

Rob Jones: In relation to the powers in clauses 13 to 16?

Kenneth Stevenson: Yes. I apologise—I think I have cut across the Minister, because she asked a very similar question, but, if you could give us an idea of how those three things that you spoke about before could be helped by the Bill, that would be really helpful.

Rob Jones: When we identify somebody from the UK who is involved in organising small boats crossings, for instance, we have to get very good, sophisticated surveillance control over that individual to get enough evidence to be able to produce a full file submission to the CPS for a section 25 facilitation offence. That could mean months of surveillance, or covert activity, in terms of eavesdropping and audio recordings.

In the meantime, we are seeing that individual with a public profile on social media, researching crossings, communicating with people overtly and meeting people. When you are looking at the commissioning of the

offence, and you are living with somebody who is involved in serious organised crime, you are seeing that play out in front of you.

These clauses allow us to take elements of their business model—as they are meeting people, as they are researching, and as they are taking the preparatory steps to the section 25 offence—then go to the CPS and say, "We think we've got enough; we think we could go now." That gives you more momentum, more speed and more agility.

It is the same mindset as trying to prevent attacks in the CT world. You would not choose to reactively investigate a terrorist attack; we would not choose to reactively investigate highly dangerous crossings in the English channel during which people get killed. We would choose to pre-emptively stop them, and that is what the new offences would introduce.

Q39 Tom Hayes (Bournemouth East) (Lab): My question is regarding the asylum decisions backlog that the country faces, which we are now starting to move through. As a consequence, of course, some people will have their grants rejected and others will have them accepted. Where the grants are accepted, what would you say to anybody who claims that that could be a pull factor for people to try to access this country?

Then, just picking up on your point, Mr Jones, about criminal gangs starting to feel the pressure because of this new suite of tools, would you say that the tools provided for in this Bill, which will have a disruptive effect, could in consequence also have a deterrent effect on the criminal smuggler gangs?

Rob Jones: I will take the second question first. Obviously time will tell but, adding to what we are doing already, these tools will rack up the pressure, and that starts to change behaviour. It increases costs and increases friction in the business model. Those things contribute to deterring people from getting involved, and we see that with other areas of criminality. I will allow others to answer the asylum question.

Sarah Dineley: I am going to dip out, rather, and say that it is not really a matter for the Crown Prosecution Service, but I can tell you that the Home Office is undertaking a piece of work looking at what the pull factors are for migrants wanting to reach the UK, and at what point they reach the firm decision that the UK is their final destination.

Q40 Tom Hayes: If I reframe the question, then, have you seen any evidence to suggest that it may be a pull factor?

Sarah Dineley: There is nothing that I have read in any interview provided by a migrant to suggest that that is a pull factor.

Jim Pearce: I have a personal view, but I am speaking on behalf of the national police chiefs, and I am not sure that I am in a position to do that. That is probably a question for either Immigration Enforcement or the Home Office.

Q41 Chris Murray (Edinburgh East and Musselburgh) (Lab): Thank you for the really interesting testimonies that you have brought today; we really appreciate it. I have two questions. We heard from the Migration Observatory earlier that one of the challenges in this world is that demand is essentially inelastic: they could double the price of the crossings and there would still be a market of people who would pay it, even for very flimsy boats. Picking up Tom's question, it strikes me that the Rwanda scheme, which this legislation repeals, was ostensibly focused on deterrence and therefore trying to tackle demand—but, because demand is inelastic, it was not having the effect. It sounds like you are saying that this legislation is focusing on the supply and just making it impossible for people to cross the channel, no matter how much demand there is for it. Is that right? Have I understood that correctly?

My second question is for Sarah. I should probably declare an interest because I was previously the home affairs attaché at the embassy in Paris. You talked about international co-operation and mentioned things like JITs and Eurojust and the challenges we face there. We heard from a previous witness about how the UK no longer being in Dublin is being cited by migrants as one of the reasons that they are going in. Can you say more about the challenges that the UK is facing post Brexit? How do we build relations with key allies to overcome them?

Sarah Dineley: I will start with how we rebuild relations with key allies. I have talked about our network of liaison prosecutors. We regularly engage and hold engagement events with our overseas prosecutors: this year alone, we have had engagement events in Ireland, Spain and, two weeks ago, Italy. That is about building those relationships and finding out what their challenges are, as well as finding out about their legal systems and what barriers there are to the co-operation that we are seeking. I think we do have to recognise that different countries have a different legal framework, and we cannot simply impose our framework on another country; we have to be able to work around their framework to try to get what we need from them.

The Chair: I want to get Mike Tapp's question in quickly so that you can summarise. We have got just two minutes left.

Q42 Mike Tapp: I will make it quick. I am really pleased to see the enthusiasm for the disruptive approach, by the way. How do you see the Border Security Command working strategically and operationally?

Rob Jones: For me, I have worked really closely with Martin Hewitt already, and it works well. It allows me to focus on the operational leadership of tackling the organised crime threat and Martin to have the convening power and to work across Whitehall on a range of issues. It provides clarity, and we have more than enough to get on with in the NCA in tackling the organised crime element.

Jim Pearce: I sit on Martin's board, so strategically I am heavily involved, and members of my team sit within the operational delivery groups. Speaking from a personal point of view, his strategic plans over the next few years make absolute sense in terms of what he is seeking to achieve for the Border Security Command. Exactly as Rob just said, it feels as though the co-ordination is there and it is driving a system response across law enforcement and more widely.

Sarah Dineley: Although we contribute to the Border Security Command, as an independent prosecuting authority we cannot be tasked or directed. However, we do value the collaborative work that we can do within that sphere.

The Chair: That brings us to the end of the time allocated for the Committee to ask questions. On behalf of the Committee, I thank the witnesses for your evidence and for your service.

Examination of Witnesses

Tony Smith, Alp Mehmet and Karl Williams gave evidence.

2.40 pm

The Chair: We will now hear oral evidence from the former director general of UK Border Force, from Migration Watch UK and from the Centre for Policy Studies. We have until 3.20 pm for this panel. Could witnesses please briefly introduce themselves for the record?

Karl Williams: I am Karl Williams, the research director at the Centre for Policy Studies. I have written several reports on legal and illegal migration.

Tony Smith: Hello, my name is Tony Smith. I spent 40 years in the Home Office, between 1972 and 2013, from immigration officer right the way up to director general of UK Border Force.

Alp Mehmet: I am Alp Mehmet, chairman of Migration Watch. I am also a former diplomat and a former immigration officer.

Q43 Matt Vickers: A nice broad question: are there any provisions you would like to see added to this Bill to strengthen our ability to drive down illegal crossings?

Alp Mehmet: May I just make a few remarks? Would that be acceptable?

The Chair: We have a limited amount of time, so if you could answer the question, that would be great.

Alp Mehmet: I welcome the Bill in many respects. It is the sort of thing that needed to be done, and it is now happening. I welcome the co-ordination taking place across Government, and the potential co-operation with the EU and EU member states is also to be welcomed. The setting up of Border Security Command and the Border Security Commander will be helpful. My only gripe is that I strongly disagree with the repeal of the Safety of Rwanda (Asylum and Immigration) Act 2024—I think that is a mistake. I also think that repealing certain parts of the Illegal Migration Act 2023 is a mistake. That is my personal view, and I am happy to explain why in a moment.

I wonder whether primary legislation was necessary to do a lot of what is happening, but we are where we are. If anything, I think repealing the Rwanda Act will encourage illegal immigration, or whatever we may call it, to some degree, which is unfortunate. A lot of people entering the EU—240,000 were declared to have entered illegally last year—will end up coming to us. There is no deterrence because, once they arrive here, the likelihood is that they will be able to stay. I believe the only deterrent is to restrict arrivals, and to contain and remove quickly. That will send the right message. I do not think anything in the Bill suggests that is going to happen. That is broadly my view.

Tony Smith: Looking at the relevant clauses, the first thing that struck me is that the Border Security Commander will be another civil servant. I think it will be a director general post in the Home Office. I was a director general, and we already have quite a lot of them. I am not sure he will actually be able to command anything. He is probably going to be more of a co-ordinator.

I would like to see the Border Security Commander and his team have law enforcement powers so that they can arrest and detain, the same as officers in Border Force, the National Crime Agency and Immigration Enforcement. I think that whole governance structure needs attention. It needs someone to pull it all together. I am not sure we have pitched the post right in immigration law enforcement teams.

On the Border Security Commander's reporting requirements under the Bill, I think he regularly needs to publish details of irregular arrivals by way of nationality and age, and provide regular updates on where they are in the process, so we can all see whether there are logjams in the process from arrival to either removal or grant. We can check the timelines. I think they already have a dashboard in the Home Office that does that, so I presume he will be able to take responsibility for that.

I would also like to follow up on the point that Alp Mehmet made about data on removals and the numbers of people who can currently be excluded under NABA because they have come from a safe third country. That is still there, but we do not know the data on how many of them are actually being removed on a case-by-case, so I would like to see a list of all the countries to which we can remove people: safe first countries, source countries and third countries.

We know the EU will not take third-country returns. In fact, other than Rwanda, I do not think there are any countries that will take third-country returns. There are countries that will take back their own nationals, but under this new system where we are doing away with SORA and most of the IMA, there does not seem to be a third-country outlet. Therefore, people who come here from Iran, Iraq, Syria or Afghanistan know that, from the other side of the channel, they need only get into British territorial waters and they will probably be allowed to stay in the UK. They might well get asylum, but even if they do not, it is impossible to return them for one reason or another.

I am really interested in that returns piece. I am keen on capturing data from mobile devices. Some of them keep their mobile phones. That data is being used for prosecution purposes only. I think it should be made available to officials who are considering their asylum claim. Passport data, identity data, age data and travel history data are often held on those phones—all data that would be useful when considering an asylum application. We need legislation to do that.

I would also use mobile devices to track people who are given bail so that we can use the tracker to know where they are in the event of an adverse decision from the Home Office, so that we are able to find them. At the moment, we do not have powers to do that because of the Regulation of Investigatory Powers Act 2000. I would like to see an amendment that enables that to

happen. We know the tagging systems have not really worked. In the unlikely event that we keep SORA or the Rwanda plan—I do not expect the Government will—we really need to look at options for offshoring asylum claims from people who have arrived from a safe third country. If we cannot send them back, we could send them to another safe country—ergo, Rwanda—where they could be resettled safely without adding to the continuing flow of arrivals by small boat from France.

Q44 Matt Vickers: Do you have anything to add on that, Karl?

Karl Williams: I have two brief points to reinforce what Tony was saying. It feels to me like the Bill focuses on disruption and the interdiction of routes for entering the country illegally. It does not do much on deterrence. As the impact assessment says, on pillar 3, the changes to measures for going after the gangs, it is very uncertain what the outcome will be. That is because there is no evidence base here. The only country that has succeeded in stopping small boats is Australia. There was some interdiction work with Indonesia, but it was primarily about the offshoring agreement, which was a major plank of its deterrence. I would like to see deterrence measures added, not just disruption.

Secondly, on the Border Security Command, to reinforce what Tony said, data information is really important. Migration policy, legal and illegal, has generally been bedevilled by very poor quality Government data. It seems the new Border Security Commander will have limited ability to take operational control. One thing I would like to see them have is power to access and pull together data, so that we can have a much better picture.

Q45 Matt Vickers: Are there any lessons from abroad that we are failing to learn at this point?

Tony Smith: One thing I have raised is the possibility of a biometric entry/exit system, which we do not have in this country. I chair a lot of conferences around the world, on border developments, border security and border technologies. Your face will become your passport sooner or later—sooner in some countries than here. If we had the powers and authority, we could capture a digital biometric image of everybody entering and exiting the country, and we could require the carriers to do likewise—we do not have physical embarkation controls.

This is happening in America. It is happening in Dubai. It is happening in Singapore. We are going to Curaçao, which now has a walk-through border. All it does is capture your face. It matches you to the API data that you already have, uploads it into the cloud and recognises you straightaway, so you have a more seamless border. It will give proper figures on who is in this country and who is not. Your net migration figures will be a lot more accurate than they are currently, provided that we have the powers to capture and retain everybody's facial image. That means UK passports, Irish passports, electronic travel authorisations and visas, and permanent residents. I think that is achievable, and I would love to see it happening in this country.

Q46 Dame Angela Eagle: Migration Watch's website says that you are worried about population projections and a

"significant fall in the percentage of the indigenous (white British) population."

Can you explain what your worry is, and could you define "indigenous white population"?

Alp Mehmet: First, I am a first-generation migrant. I came here as an eight-year-old. I have been here since the mid-'50s. The immigrant ethnic minority element of the population in those days was something like 4%. In the 1951 census, it was 3.9%, and it is now 25%. That has substantially happened over the last 30 years.

What worries me, if that is the right word, is the fact that people are being added to the population, and migration is the only driver of population increase at the moment. I know you have David Coleman coming up next. He will tell you a great deal more about the likely evolution of the population's demographic mix. That is my concern. Having arrived here as a migrant, and accepted and joined this country and made it my own, I see it now changing very rapidly into something that the majority of people in this country do not want to happen.

Dame Angela Eagle: You still have not told us what indigenous means, but thank you very much.

Q47 Mr Forster: Karl, you talked about how the Bill does not have very much deterrence in it. What is your view on safe, legal routes? If we had safe, legal routes, would that not deter people from unsafe, illegal routes?

Tony, you talked about your perfect solution to borders. You did not mention the costs. Do you have an idea of the set-up and running costs?

Karl Williams: The short answer is that we do have safe and legal routes. The new Home Office immigration data, which was published this morning, pointed out that last year 79,000 people arrived through safe and legal routes. Since 2020, about 550,000, maybe slightly more, have arrived by safe and legal routes: Ukraine, Hong Kong, the Afghan resettlement schemes, and people arriving through UN programmes and from Syria, yet that does not stop the crossings.

The fundamental problem is that there will always be more demand to come to this country than we would probably be willing to allow for through safe and legal routes. One stat is that, a couple of years ago, Gallup did a very wide-ranging poll of attitudes on migration and found that, globally, about 900 million adults would migrate, given the opportunity—30 million of those people put Britain as their first choice. There is always going to be a longer queue to get in than we have capacity for at any given time. That is my view.

Tony Smith: I do not have a detailed financial breakdown for you, but I can say that the direction of travel in the UK and around the world is to take away officers from the border and to automate a lot of the processes. We are doing that here already: we move, I think, more people through e-gates than any other country does. This is an automated border that will reduce the number of officers required to do frontline, routine tasks, which they really do not want to do, and enable them to target the people they want to focus on. If you were to do that detailed analysis, you would probably find that it will be cost-neutral in the end.

Q48 Mr Forster: Thank you for the answer, Karl. Are you suggesting that, to combat the small boats issue, we should have more schemes like the Ukrainian one?

Karl Williams: I do not think it combats it, and I do not think it is a disincentive. The ideal solution is that, once we have control over the small boats, and therefore who is coming to this country, we can have a serious conversation about, if we want, expanding safe and legal routes, what that might look like and what other parts of the world we might want to help. But so much resource is now sucked up by dealing with the downstream consequences of the channel crossings, such as the hotel bills and so on—this is a sequence of things. I do not think having a safe and legal route is in itself a disincentive to small boat crossings.

Q49 Jade Botterill (Ossett and Denby Dale) (Lab): All three of you have expressed disappointment at our scrapping the Rwanda scheme as part of the Bill. What part of the £700 million spent by the previous Government do you think was good value for money for the taxpayer?

Tony Smith: I do not think any of it was good value for money for the taxpayer, was it? The history and record speak for themselves. But we need to think about why it did not work and look at the reasoning behind why it took three years to try to get the process going. An awful lot of work was done in Rwanda and the Home Office to try to make it happen, but it was subject to continual legal challenge. Legal challenges were made in Europe, in the domestic courts and by judicial review. On a number of occasions, flights were lined up that did not happen, and a lot of money was therefore wasted in the process.

I am not a big fan of the Illegal Migration Act. Some of it was cumbersome, because it put all the eggs in the Rwanda basket. Rwanda was a limited programme—obviously, we could not send everybody to Rwanda—but under NABA, you had the option to triage and put some people into the Rwanda basket: those hard country removals, where you could not remove them anywhere else. You had that option, but you could still do what you are doing now and process people from places like Turkey and Albania, put them through the asylum system and return them to source.

Losing that triage option is going to be a big drawback, and it is going to cost a lot more money in the long run. The intake will continue to come, and you will then have to rack up the associated asylum, accommodation and settlement costs that run along with that.

Karl Williams: I would ask: "Value compared with what?" There is one argument around the counterfactual of if you had a deterrent, but I would also refer to the Office for Budget Responsibility's analysis last summer on the fiscal impact of migration. It estimates that a low-skilled migrant, or low-wage migrant as the OBR puts it, will represent a lifetime net fiscal cost to the taxpayer of around £600,000. We know from analysis from Denmark, the Netherlands and other European countries that asylum seekers' lifetime fiscal costs tend to be steeper than that, but even on the basis of the OBR analysis, even if everyone ends up in work, if 35,000 people cross a year, which is roughly where we were last year, at that sort of cost range, it will probably be £50 billion or £60 billion of lifetime costs. Compare that with £700 million—it depends on what timescale you are looking at.

Q50 Pete Wishart: Does the panel agree that there will be increasing demand to come to the UK from right across the world? We are not going to deal with war-torn situations, oppression and absolute poverty, so people are going to continue to move in. The movement of peoples has never been so profound as in the last decade. I do not know exactly how you plan to stop that.

If I am unfairly characterising your view, you can correct me, but your view is that they should not get into the UK, that they should be stopped either in the sea or the minute they arrive in the UK, and that at that point they should be booted out somewhere—if not Rwanda, some other country—or just put back to country of source. Is that roughly your view? You can just shake your head or nod.

Tony Smith *indicated assent.*

Q51 Pete Wishart: That is fine. I am just wondering: have you even the slightest scintilla of sympathy, compassion or concern for these poor wretched souls who end up on our shores with absolutely nothing and who have fled oppression, warfare and extreme poverty?

Tony Smith: I do have sympathy with them. I do sympathise. Many of us, I suspect, would do the same. My issue is that they have travelled through a great many countries to make it to the UK. We used to have the United Nations High Commissioner for Refugees resettlement programme, when we had control of our borders. I was a big fan of that; I went to Canada and studied it for three years. We were actually searching the world and working with the UNHCR to identify the most vulnerable people and set a cap on the numbers that we could take. That was going on in Canada, Australia and the UK.

If you look at the UNHCR website and see the numbers of people who are going through that programme now, they are not getting resettled. The reason why not is that the business model has been taken over by the smugglers. That is why we are getting large numbers of young men who can afford to cross multiple borders and pay smugglers to get here. I would like to see a return to the system where we have control of those irregular routes. Then we could start looking, as Karl said, at reintroducing UNHCR resettlement programmes, going to the UNHCR and taking a certain quota into the UK in a managed way.

Alp Mehmet: Out of Gaza, there are going to be potentially 2 million people who would like some comfort, so they would like to move to somewhere a bit more convivial than Gaza is at the moment. But, if I may ask the question, why is it assumed that—because people like us advocate control and discouraging people, a lot of the time, from risking their lives, not just in crossing the channel but in living rough as they do—discouraging them from coming is in some way inhuman, insensitive and unkind?

Q52 Pete Wishart: That is not what I said. I was just asking for your response to the people who arrive on our shores, and whether you feel empathy, compassion and concern about them.

Alp Mehmet: We do, and even in my day as an immigration officer 50 years ago, that was exactly what we did. Tony rose to run the show, but I would argue that we had far more leeway in the '70s as very junior, humble individual immigration officers. We were properly trained, we were monitored, we did things entirely within the law and we dealt with people humanely. It

does not mean that that will not happen because we are saying, "No, you shouldn't jump into a dinghy and make your way over here."

Q53 Jo White (Bassetlaw) (Lab): From the moment the Rwanda deal was signed until the moment it was scrapped, 84,000 people arrived here on boats. How can you define that as a deterrent?

Alp Mehmet: Tony, you start, and then I will catch up with the question, because I did not quite hear.

Tony Smith: We may well say the same thing. The question was about the fact that the Rwanda plan did not deter anybody because we still had 84,000 people arrive. I think the reason for that was that it was never, in fact, implemented. The intelligence coming across from Calais was that the smugglers and migrants never believed that it was going to happen. Once it became clearer that the Safety of Rwanda Act had passed, and that it might well become a reality, there was intelligence to suggest that some people were thinking twice about getting into dinghies, and there was some displacement into Ireland as a result. Of course, we will never know now, because we never actually implemented it.

We had a change of Government, and the new Government made it very clear that they were going to abolish the Rwanda plan, so we are where we are, but I would have liked an opportunity to see what would happen if we had started at least some removals. We had flights ready to go. I would have liked to see the impact that starting some removals would have had on the incoming population. We will never know now, I am afraid. Clearly, we hardly removed anybody to Rwanda in the end—I accept that—but I would have liked us to at least try, to see if it had an impact.

Alp Mehmet: It was never going to be the solution. It was not going to be the way to stop those people jumping into boats and coming across, but it was going to help. There needed to be other changes. I appreciate that we are not going to resile from the European convention on human rights any time soon, but while it is there, it is very difficult to be certain that people will be dissuaded. Some will be, some would have been, and we know that some were already being deterred. It was a pity, I am afraid, that the Rwanda deal went.

Q54 Katie Lam (Weald of Kent) (Con): We have heard today about clauses 13(3) and 14(4) exempting NGOs from criminal charges for helping asylum seekers to cross the channel. What do you think of those?

Karl Williams: If we are talking about what deterrence we might need or what pull factors there are, having charities that in some circumstances are facilitating people crossing the channel is clearly an extra pull factor—probably a small one in the grand scheme of things, but it is there. I am thinking about organisations such as Care4Calais, which provide, for example, phone-charging services to migrants who are waiting in the sand dunes and the camps around the beaches where the crossings are made. They can recharge their phones; they are therefore in contact with the smuggling gangs. I think that there is a hole in the system that needs to be closed, and I do not think that this Bill does it.

Tony Smith: There are charities and charities. Some charities are not in any way involved in facilitation; it is a pure "care in the community" exercise or function in Calais. But I think other charities are a little bit more mischievous: they might be helping people with what to say when you are near the border, how to present your asylum claim, and how to get to a beach that might not be patrolled. I would like to see more work done on that.

Q55 Becky Gittins (Clwyd East) (Lab): Thank you to the panel for your spirited contributions so far. We know that the processing of asylum claims ground to a halt under the previous Government, which was due in part to the Rwanda scheme and to the Illegal Migration Act 2023—that being the route through which, other than the four who went to Rwanda, people were either granted asylum or returned to the country from which they came. We also know about the impact on our communities of the asylum system grinding to a halt; about the massive influx of people being placed, for indefinite periods, in asylum hotels; and about the impact that that had on our local authorities and their ability to provide services to the rest of our communities.

Given that the Bill clearly provides a deterrent to smugglers, to the people-smuggling business and to the criminal gangs in the channel by disrupting their activity, and by making it a greater expense, why do you still think it is a mistake—I think two or three of you said it outright, but you all seem broadly supportive of the Rwanda scheme—to be repealing those Acts with the Bill?

Tony Smith: There is the Nationality and Borders Act 2022, and there is the Illegal Migration Act 2023. I said earlier that I was not a great fan of the IMA, for the very reasons that you have stated: it brought in the ban too early, and people were being banned from re-entering this country before we had even removed them. That was impacting on port cases. It was a hugely difficult time, because that law put all of the eggs in the Rwanda basket. As you say, that left increasing numbers of boat people being served with a notice that they were going to Rwanda, when they were never going to go to Rwanda; they were going into the system that you described. I do not think that that was a very good idea. If we had put the IMA to one side, with the duty to remove, we could have stuck with NABA.

Then we had SORA, the Safety of Rwanda (Asylum and Immigration) Act, which would have turbocharged NABA. It would have given you a triage option: either to accept people into the asylum system quickly and process them, as you are doing now, or—for others, where you wanted to make a point that it is not okay to come across in a small boat and get to stay in the UK—to send some of them to Rwanda. That is what we could have done under NABA and SORA, and my view is that the IMA disrupted that.

Karl Williams: I suppose the asylum backlog of inadmissible people is a function of the disjunction whereby different parts of the legislation are being implemented at different speeds. Obviously the intention at the beginning was that we would have the flights going off in January or February 2023. When the ECHR injunction stopped the first flight, that derailed it. You could conceivably have had a situation in which a combination of some offshoring and the deterrent effect of that meant that the backlog of inadmissible cases did not grow. The fact that Rwanda was stalled in the courts for a couple of years, and then just did not happen at all, meant that that amount was inevitably going to increase. That was then locked in.

Q56 Mike Tapp: I have a couple of questions for Mr Smith. First, in your earlier comments you spoke quite enthusiastically about biometric collection at the borders. Are you aware that we are looking at a new entry/exit system with biometric collection, to come in this year? Secondly, you spoke quite negatively about the Border Security Command. I believe that you retired in 2013. Now, 12 years on, the director general of the National Crime Agency, who we had in before you, speaks very enthusiastically about the Border Security Command and this Bill. Have you spoken to them since you retired?

Tony Smith: No, I have not spoken to the DG of the National Crime Agency. I am retired, so there are probably different constraints on what I can say versus what you can say when you are still working for the Government. But I am very close to Border Force immigration enforcement and a lot of my former colleagues who are still working. I went out on the boats with them last year and am very much in touch with what is going on there.

I worked under the UK Border Agency. We had agency status, and we were at arm's length from Government. I had specific removal targets that I had to deliver. I had end-to-end teams: I had front-end teams, asylum teams and immigration enforcement teams in a region, working a case from start to finish, with rigorous case conclusion targets. I liked that system, because I thought it worked, but it got broken up into silos—we now have directors general for Border Force, immigration enforcement, migration and borders, and homeland security, and now we are putting another one in for Border Security Command. That is quite a jumbled mirage of civil servants. If you then have crime agencies—NCA, the police, and the security services—it gets really complicated, so I can see why you want a co-ordinator. But that is what it is: a co-ordinator, not a commander.

I was Gold commander for the UKBA at the London 2012 Olympics. I was in charge, basically; obviously I was answering to the Home Secretary on decision making, but it came to me because I had command over all those units. Now, you do not have that, because the Home Office is very gradeist. You have all these directors general for a whole bunch of silos, so it is going to be a heck of a job for the new security commander to actually direct activities to those agencies that have other priorities and other responsibilities. That is why I would like to see them have agency powers—arrest powers, enforcement powers—and to have a look at that whole structure of Border Force enforcement and migration enforcement, and ask, "Is this too unwieldy? Can we have a more streamlined process whereby we have somebody calling the shots?"

Q57 Mike Tapp: Thank you—so obviously you differ from those who are currently serving. On the biometric checks, are you aware that we have a new system?

Tony Smith: I know you have an order coming in next week that will allow biometrics to be captured, but I do not think it goes far enough.

Mike Tapp: Does the new, Europe-wide entry/exit system, which will be implemented—

Tony Smith: Yes, the EU EES; that is what I mean.

Mike Tapp: Yes, the EES. We are having it at our borders.

Tony Smith: No, we are not.

Mike Tapp: Yes, we are. It is coming in this year.

Tony Smith: We do not have a biometric entry/exit system. The EU is bringing in EES, which means Brits will have to give their biometrics on entry and exit. We are bringing in the electronic travel authorisation—the ETA—but that is different from an entry/exit system.

Q58 Tom Hayes: My question is for Mr Williams. In a previous panel, I asked Dr Walsh whether he thought it was difficult to make emphatic assessments of the fiscal burden of migration, given the quality of the data available. You authored a February 2025 report that makes broadly the same points about some of the quality gaps. I would welcome you talking about the gaps in that data, which obviously affects the ability to make emphatic assessments.

I also want to ask you about that report. In a previous answer, you raised the importance of counterfactuals. In reaching the overall recommendations and assessments in your report, did you consider counterfactuals such as the fact that migrants might move up the wage and skills distribution and might not always remain on low pay? In the absence of migrant workers, for instance in health and care settings, there would need to be other people who could do their work. Did you consider the economic impact of having nobody in those roles to do that health and care work, and whether that would affect the worklessness in our country? Did you consider whether there could be a reallocation of British workers into higher-skilled and higher-wage jobs as a consequence of those migrant workers? Did you think about the economic impact of potentially more people doing unpaid care because of a lack of paid carers?

I ask those questions not because I feel we should rely on migrant workers—I do not—but because your report has been lauded by the shadow Home Secretary and other Conservative Members of Parliament. I want to make sure that if it is being used as a point of reference, the data and the assessments have integrity. If you were to consider those counterfactuals, I wonder whether that would affect your report.

Karl Williams: To clarify, we are talking about the report on indefinite leave to remain that came out recently, not the report from last year.

Tom Hayes: I forgot the name of it. The "Here To Stay?" report?

Karl Williams: Yes, that is the one. That is purely about the fiscal impact. There is some analysis, which I can go into in a minute, on the broader economic picture in the previous report, but this report was more tightly focused.

Tom Hayes: But inevitably the counterfactuals would have an impact on the fiscal burden carried by the state.

Karl Williams: Indeed, yes. The counterfactuals we did think about were different levels of stay rates and different rates among different wage profiles. Migrants earning more as they go through the system clearly does happen to some extent, whether through out-migration

or through career progression. In conducting that analysis, we stuck to the fiscal profiles used by the OBR, because, as you say, the data quality is fairly poor. That was the best there was, without trying to construct our own estimates for ingoings and outgoings as migrants progress over their life course in the UK. The OBR models it by age, so it captures the different wage contributions that you make at different points in your life, which will be higher in some points and lower in others. It also captures the different burdens of, for example, healthcare in old age.

I am glad that you have raised the quality of the data. We have repeatedly pointed out, as have the Governor of the Bank of England and the Office for National Statistics, that the labour force survey is very broken. In that report and in previous reports, we have always pushed the point that we need better data. Everyone needs better data. This is one area where there is broad consensus, whether you are restrictionist or want more migration or whatever else. I understand that the reference here is to Denmark and the Netherlands.

Q59 Tom Hayes: Would you feel cautious about Members of Parliament emphatically assessing that there would be a fiscal burden of £234 billion over the lifetime, as your report concludes, based on your concerns about data, but also the fact that consideration of some of the counterfactuals I listed—and there could be many more—would impact that overall figure?

Karl Williams: The report is very clear about the assumptions we have made at various points and the unknowns. With any modelling exercise, whether you are conducting a fiscal model of an effect of a tax change or whatever else, you have to make reasonable assumptions.

The Chair: Thank you. That brings us to the end of the time allocated for the Committee to ask questions of this panel. On behalf of the Committee, I thank our witnesses very much for their evidence.

Examination of Witness

David Coleman gave evidence.

3.22 pm

The Chair: Good afternoon. We will now hear evidence from David Coleman, emeritus professor of demography at the University of Oxford. We have until 3.40 pm for this witness. Could you please introduce yourself briefly for the record?

David Coleman: Yes, of course. My name is David Coleman. I am emeritus professor of demography at the University of Oxford. I have been retired for over 10 years, and I interest myself in all sorts of aspects of demography—not just migration, but mortality, fertility and all the other things that we play with.

Q60 Matt Vickers: Do you have any particular concerns about the Bill as drafted, or any suggested ways in which it might be improved to achieve its ends?

David Coleman: The sad fact is that I do have reservations about the Bill, but I do not have any magical solutions to put that right, I am sorry to say. It is, after all, an intractable problem, this question of asylum and migration.

My concerns are that we have to, we are forced to, restart or intensify a war that we may not easily win. Rather like, as I suggested in my note, the war against drugs, it will be difficult—probably perpetual and probably indecisive. It will have some effect. It will consume a great deal of effort. It may involve unkindness to asylum seekers and possibly risk to those doing the investigations. It is, I think, very much second best to the idea of trying to deter migration for asylum claiming in the first place. That, of course, was dismissed by the present Government as being unfeasible, unworkable and unkind, so the Rwanda scheme was scrapped. However, although it sounds rather brutal, it seems to me that the only obvious way of deterring movement to Britain is by making the movement to Britain unattractive. The obvious way of doing that is to divert at least some of the claimants somewhere they will be safe but will not enjoy the benefits of being in a rich country.

There are four ways of dealing with the issue, are there not? One is to have open borders, so that everybody who wants to come can come. Then there are two ways of being nasty: one is being nasty to the smugglers themselves, which is, I suppose, what the Bill is primarily about, and the other is being rather nasty to people who wish to claim asylum, which the previous policy did. Alternatively, you could have special routes for selected people who can be investigated, possibly by the United Nations High Commissioner for Refugees, and then admitted. That has, as far as I can make out, been ruled out by the Government for the time being.

Q61 Matt Vickers: Are there any lessons from abroad that we are failing to learn?

David Coleman: The lesson that everyone cites is the example of Australia, which, depending on which Government are in power, has a policy of diverting people right across the other side of the Pacific to an island where they were notionally safe, but where they were not able to enjoy being in Australia. That is supported or not supported depending on which Government is in power, which is one of the problems with migration policy. Generally speaking, whether the doors are tight shut, half open or fully open depends very much on the swings and balances of electoral change and is rather unpredictable. That is inevitable.

Q62 Dame Angela Eagle: Professor Coleman, are you a member of the Galton Institute?

David Coleman: Yes and no. The Galton Institute does not exist any more; it has changed its name to the Adelphi Genetics Forum.

Dame Angela Eagle: But it is a eugenics organisation?

David Coleman: No, it is not. It is devoted to genetics research and has conferences every year on genetics research. It promotes research into that and has a small grant fund that people can apply for. It is a very pukka organisation.

If you have any doubts about it, I suggest that you look at its publications and its website. You will find something by me on that that is only slightly connected to genetics: "New Light on Old Britons"—it is about palaeontology and human evolution. That is one of the things that the organisation was interested in. You are quite right that it started off as the Eugenics Society,

and before that it was the Eugenics Education Society. That was in the days when progressives of every kind clustered around to support eugenic ideas because they were thought to be improving and beneficial to society. Society has changed its mind—

Q63 Dame Angela Eagle: Eugenics was discredited because of the rise of Nazi Germany and the Holocaust, was it not?

David Coleman: It got a terribly bad name for that reason—exactly so. That is why, over the last century, opinion has moved against using that word and using those notions. But I respectfully point out that it has nothing to do with asylum seeking.

Q64 Dame Angela Eagle: Do you believe in universal human rights—that all human beings are equal and deserving of universal human rights?

David Coleman: I suppose, as a rather bad Christian, I am bound to believe that, but the problem with human rights definitions is that they tend to be infinitely extendible. All kinds of entitlements that started off being universally accepted by almost everyone of good will tend to get expanded beyond reason.

Q65 Dame Angela Eagle: You mentioned that trying to deal with the problems of illegal or irregular immigration can mean being, in some ways, "nasty to the smugglers", which the Bill is, but also nasty to asylum seekers. Do you want to talk about what you mean by that?

David Coleman: I mean making the prospect of life in the country of intended asylum less attractive than otherwise might be the case. That is what the Rwanda policy was. I suppose I was speaking slightly tongue in cheek in calling it "nasty", but it certainly is not the same thing as being welcoming, is it? The idea of the Rwanda Bill was to secure the safety from persecution and risk of death for asylum seekers, which is the aim of asylum, without admitting them to Britain and all the benefits of being in a rich country.

Q66 Dame Angela Eagle: But the reality was that tens of thousands of people had arrived and could not be processed, because of the Illegal Migration Act and its flaws. They were just living in hotels forever, as they were not able to be processed and not able to be sent anywhere else. How is that a solution to the issues that we are trying to deal with?

David Coleman: I am not here to defend the Rwanda policy, although I think that, in principle, it had some merit. That is a problem that would arise whether there was a Rwanda policy or an Illegal Migration Act or not, because of the sheer pressure of asylum seeking from all corners of the world. That has been the case in the past for a long time and will continue to be the case. We now have asylum claims up to 99,000 in the last year, so it is not just to do with the Illegal Migration Act; it is a worldwide process.

Q67 Dame Angela Eagle: Of course, asylum claims are up because they were not being processed, but now they are. That is dealing with the backlog that was caused by the problems with the Illegal Migration Act.

David Coleman: I do not know how important the Illegal Migration Act was in increasing the number of the backlog, to be perfectly honest. In the past, it has been the same height without the Illegal Migration Act. About 15 or 20 years ago, it was also 90,000 per year, and that was way before any of the past legislation was enacted.

Q68 Pete Wishart: I was actually very excited when I found out that there was a professor of demography coming to this panel; I have a particular interest in population demography. Using your vast knowledge of the subject, could you explain what the population and demographic trends will be for practically every European nation towards the middle part of the century and the end of the century? How will these nations cope with population stagnation, population decline and the assorted problems with a smaller working-age workforce supporting an older generation, with a falling birth rate around the world? What will they do to deal with that?

David Coleman: This is a formidable tutorial group to try to give such an answer to. If I could say with any kind of confidence what was going to happen by the middle of the century, I would deserve a Nobel prize.

Q69 Pete Wishart: We all know. Professor, you must know.

David Coleman: I can do my best. The present situation, as you are obviously suggesting, is rather dire from the point of view of domestic demography, such as the fact that the so-called total fertility is down to 1.44 and may fall further. Therefore, it presages considerable population ageing and decline should it continue.

At the risk of being technical and boring, I would point out that total fertility is a snapshot. It is only a calculation of, on average, how many babies the average woman—if you can imagine an average woman—will produce over a lifetime, if the same levels of age-specific fertility were to continue, which refers to the same levels of birth rate at the ages 15 to 19, 20 to 24, and so on. If that continues at the present level, in the long run you will get 1.44 babies. This is a very volatile measure; it goes up and it goes down. Back in 2010, it was 1.94, which is really very healthy and probably as high as you could possibly get.

Q70 Pete Wishart: You need two to one. You need two children per woman to sustain it—I am not telling a professor that.

David Coleman: Yes, or 2.1. That is true, although there is a risk of starting another hare. I suggest that some degree of population ageing and population decline is tolerable, particularly when we are faced with a world whose habitable area is shrinking and productivity is declining, thanks to the inevitable level of global climate change. The last thing we want, it seems to me, anywhere, is population growth. Population stabilisation and population decline, as long as it is modest and eventually comes to an end, is to be welcomed. I have said that with colleagues on a number of occasions.

I do agree that the present level of fertility is very unsatisfactory; it would be much healthier if it were higher. One gets into perilous waters trying to persuade people to have more children. The important thing is to identify those obstacles that stand in the way of the family size that people keep on saying they want to have. Despite all the problems at the present time, opinion polls suggest that people still want to have, on

average, almost two babies or even more than two babies, but they cannot, for all sorts of reasons. In this country, some of those reasons are very obvious. One is the atrocious cost of housing. House prices are now at nine times the level of the average income, compared with three or four times, which was normal in the past.

The Chair: Sorry, we have four minutes left and I have three people to get in.

David Coleman: Forgive me; I ran away with myself. I am so sorry.

Margaret Mullane (Dagenham and Rainham) (Lab): Following on from what the Minister asked you about how we have to be mean or have open borders, I looked at your written evidence, in which you have put as your ninth point, "Make Britain unattractive again", and then you refer to the Rwanda policy. You say that you do not really know, but we had the National Crime Agency in before you and they were quite optimistic about the deterrent aspects of the Bill. Are you saying that you are not at all?

David Coleman: I am not, but at the moment it is to some extent a matter of opinion. The sorts of measures being proposed in the Bill are a development and accentuation of what has been done already. After all, the Government are not doing nothing to try to moderate asylum seeking; they have already, like the previous Government, been involved in discussions with our neighbours to try to come to an agreement on all sorts of aspects of migrant trafficking. The Bill is trying to ratchet that up, perfectly reasonably.

So far those measures, although admittedly not as intense as this Bill wants to impose, have not been notably successful. I drew a parallel with the war against drugs, which has an effect. It reduces the volume of drugs in circulation and puts drug pushers in prison, but it also puts up the price of drugs. There is a rather depressing parallel there.

Q71 Chris Murray: In 2018, the Government was spending £18,000 per asylum seeker, per year. Then they brought in the Illegal Migration Act, the Nationality and Borders Act, and the Safety of Rwanda Act. By 2024, they were spending £47,000 per asylum seeker, per year. If you have any respect for public money at all, is it not self-evident that this legislation has failed and that we should try a different approach on immigration?

David Coleman: That, I suppose, is the reason why the previous Government wanted to try to do something very different indeed in the Rwanda policy.

Chris Murray: But they passed the Act.

David Coleman: It was never tried. It might well have failed, but it was certainly a different avenue. It was not the one you had in mind, I am sure, but it was none the less a different way of doing it. It was attacking the problem from a different angle—from the question of demand rather than control.

The Chair: I had Tom Hayes to ask a question, but we have literally 20 seconds.

Q72 Tom Hayes: Professor Coleman, would you on a level accept the description of being a eugenicist?

David Coleman: No.

Q73 Tom Hayes: In that case, I will use the rest of my time. Are you familiar with the—

The Chair: Order. That brings us, unfortunately, to the end of the time allocated for the Committee to ask questions. On behalf of the Committee, I thank our witness for his evidence.

Examination of Witness

Professor Brian Bell gave evidence.

3.41 pm

The Chair: We will now hear oral evidence from Professor Brian Bell from King's College London. We have until 4 pm for this panel. Could the witness please briefly introduce himself for the record?

Professor Brian Bell: I am Professor Brian Bell, the chair of the Government's Migration Advisory Committee.

Q74 Matt Vickers: Do you think that the Bill will be effective in achieving its aims? How could it be made more effective?

Professor Brian Bell: I think it is fair to say that it is an open question whether it will be effective. The evidence from lots of previous experiences is that it is actually very hard to deter this kind of activity, but I suppose you have to try everything you can and see what works. If something does not work, you try something else.

In some sense, it is an unanswerable question at this point, and it may be unanswerable in the long run. Suppose that the Bill is passed and small boat numbers go up. That does not prove that the Bill failed, because we do not know what the counterfactual is of what would have happened without the Bill, and vice versa: if the numbers go down, it could just be that the number of people who wanted to come to France and then on to England had fallen. It is going to be very difficult to directly observe the effect. Whenever you think about these issues, you always have to think about both the deterrence and sanction effect, which is what the Bill is focused on, and then how you change the underlying incentives.

Q75 Matt Vickers: Are there any lessons that we are failing to learn from abroad?

Professor Brian Bell: I do not think so, in the sense that I do not think any country has experienced these issues and dealt with them particularly successfully. There are different approaches—obviously, Australia has taken a different approach—but I do not think that any country would claim that it has really succeeded in significantly addressing this kind of problem.

To me, it is very much the same kind of problem as any sort of criminal activity. You can change the sanctions and the effectiveness of the police, and that has some effect. The evidence tends to suggest on this sort of thing that it has a fairly small effect. The deterrence effect tends often to be quite small with these policies, so in the end the right response will almost certainly be about changing the incentives as well, in terms of both what is the attraction to come to the UK and whether there are ways we can encourage people to stay in France, in this case, instead of wanting to make those journeys.

Q76 Dame Angela Eagle: Professor Bell, do you think that in a democracy it ought to be the elected Members and the Government who decide who can come to our country, rather than criminals and people smugglers?

Professor Brian Bell: Yes.

Q77 Dame Angela Eagle: Therefore, do you share my view that, when we see the establishment along our borders of serious organised immigration criminals who are profiting greatly from their illicit activities and putting people's lives at risk, we should try to do all we can to put a stop to it?

Professor Brian Bell: Absolutely, but that is sort of true of all crimes: if someone is committing a crime, you want to stop them doing it. I think the difficulty is in the question: if you stop one criminal doing it, what happens? Is there a substitution effect where you just get the next organised crime organisation taking action? The risk is that you may well succeed, but the overall macro effect of that may be not as positive as you might hope.

Q78 Dame Angela Eagle: But of course that is not a reason for not doing it, is it?

Professor Brian Bell: Absolutely not.

Q79 Dame Angela Eagle: Could you therefore comment on whether the new powers in the Bill will have an effect on our ability as a society with law and order to crack down on some of that abuse?

Professor Brian Bell: It is likely to have some positive effect. In some sense, it cannot have a negative effect, so it must have some positive effect. The difficulty is that, as almost everyone would accept, it is impossible to judge ex ante what the size of that effect will be, but that sort of tells you that you should try it and see how it works.

Q80 Dame Angela Eagle: We are taking evidence to see whether people think these things will be effective. I am not asking you to produce a crystal ball and tell us in advance, but I am trying to get a handle on whether you think this is an effort worth making. It seems to me that you are saying that it is.

Professor Brian Bell: It is an effort worth making, but I would caution that in other areas of police and crime activity, the impact of being tougher with sanctions and new offences does not necessarily lead to very substantial changes in crime rates. The overall crime rate in the UK is almost certainly driven more by incentives and economic outcomes in the long run than it is by particular offences and statutes that are passed.

Q81 Dame Angela Eagle: Is it desirable to use counter-terrorism-style powers to disrupt so that we can prevent some of these crossings from happening rather than waiting until after people have died in the channel and then trying to pick up the pieces?

Professor Brian Bell: Completely.

Q82 Mr Forster: How would the changes to His Majesty's Revenue and Customs data sharing improve border security?

Professor Brian Bell: I do not have expertise in that area. I am confused as to how significant it will be. As I understand the Bill, it will allow HMRC to share customs data with other parties. It is not clear to me what that achieves. It would be wrong of me to imply that I have any particular operational understanding of how that will help operations.

Q83 Mr Forster: We have heard a lot today about supply and demand factors for migration, which you do understand. Data sharing is meant to be one of the examples of, "This is our way as a country of clamping down on immigration." In your experience, does it have a de minimis impact?

Professor Brian Bell: Data sharing overall can be phenomenally valuable in thinking about immigration more broadly. The Migration Advisory Committee has been very clear that we need to improve the data. We have access to data from HMRC that we find very useful on the legal migration side. Fundamentally, the question is: what data does HMRC hold that will provide useful information to border security in terms of stopping organised immigration gangs? Presumably, the Government think that there are some useful points. My view is, "Why wouldn't you try it and see if it helps?" If it does not, you are no worse off.

Q84 Chris Murray: Thank you for coming today. We heard some evidence this morning about the Illegal Migration and Safety of Rwanda (Asylum and Immigration) Acts. Witnesses have called them a disaster, a meltdown, and a fundamental system breakdown. What is your assessment of those Acts on the functioning of the Home Office systems and on the cost to the public purse? How effective have they been in reducing migrant numbers?

Professor Brian Bell: I will take those questions in reverse order. I do not think they were very effective. Again, I would caution that there is always this problem that you see a piece of legislation passing and then look at the numbers and try to guess whether it was the legislation that caused the change that you see. Other things are going on, so it is always difficult to do that.

More broadly, the evidence that we have from people seeking asylum is that the exact nature of the rules that exist in the country they are going to are not big drivers of their decision to go there. People have asked asylum seekers to list the reasons they want to come to the UK, and very rarely are they things like the legal system in operation for dealing with asylum claims. It is all about the fact that English is the most common language in the world and often the second language of these people. There is often a diaspora in the country, or labour market opportunities are potentially better than in some of the other countries. Those things are generally much more important than whether your asylum claim will be dealt with in Rwanda. I do not think that many people concern themselves with that.

The numbers are certainly not consistent with a story of a very significant deterrent effect from the Rwanda Act. Of course, asylum seekers might have been really clever and spotted that it was probably going to be declared illegal by the Supreme Court—perhaps they were prejudging the legality of the measures. The cost was staggering for a policy that was very unlikely to have a significant

deterrent effect. The previous Government's difficulty was that they could never actually tell you how many people they thought would be sent to Rwanda. It is not a deterrent if you are sending a few thousand people every year.

Q85 Chris Murray: Or four.

Professor Brian Bell: Well, four went voluntarily, but if the policy had been implemented in full, there were never any guarantees. We certainly would not have been able to send 100,000 a year to Rwanda; Rwanda was never going to accept that. The cost was astounding, given the likely deterrence effect. It illustrates a problem in the Home Office at the time: there was little rational thinking about what the costs and benefits of different policies were. My personal view is that getting asylum claims dealt with more quickly would have been a much more effective use of public resources. That is in the interests of not only the British public but asylum seekers, as most of their claims are accepted. If we could have got them through the system faster, got them approved if they were approved, got them into work and integrating within their communities and, if they were rejected, actually deported them, that would have been a much better use of public resources.

Q86 Pete Wishart: You are an expert in immigration and crime—you have been doing some work on that. The clauses concerning criminalisation are main features of the Bill. How many more asylum seekers do you think will be put through the criminal courts as a result of this legislation, and how many members of gangs, and those that do the people smuggling? What, roughly, will be the proportion of each of those groups?

Professor Brian Bell: I think the numbers will be quite small. In some senses, a good piece of legislation makes a criminal offence so serious, and a penalty so severe, that no one commits the crime. There is a risk that you think you have failed because no one is convicted, but actually if you deterred the behaviour then it succeeded. The reality is that if there are any convictions, it will be almost entirely asylum seekers who are convicted. I do not see how the gangs will be convicted because, as I understand it, they are not on the boats.

Q87 Pete Wishart: It is not really going to affect the gangs, and very few of them will be caught under the Bill. I had a dispute earlier with a director general of the National Crime Agency about piloting the boats, which will, as you know, be an offence under the new legislation. In the last three years, 205 people were convicted on that basis, and it is not even in the Bill. Are we likely to see more people convicted for steering a boat because they were probably forced or compelled to do so?

Professor Brian Bell: That is the implication of the legislation. I am not a lawyer, so I should be careful here, but I understand that there is a defence in the legislation that would allow you to claim that you were essentially forced into doing it, under sort of human slavery conditions.

Pete Wishart: Not according to the current numbers: 205 is a lot of people being convicted for being compelled to drive a boat—

The Chair: Order. Sorry—we only have eight minutes.

Q88 Jo White: Just over a week ago, the Government announced that there will be no automatic right to British citizenship for a person who comes here illegally by boat or lorry. Do you think that will act as a deterrent to people coming here?

Professor Brian Bell: It is probably not a very strong deterrent. To repeat myself, all the evidence is that when asylum claimants think of where to claim asylum they do not have detailed knowledge of the ins and outs of the procedures of different countries. They almost certainly do not know what might happen in five to 10 years, which is the length of residence that they would need to apply for citizenship, so I am not sure it will be a significant deterrent. However, it is important to recognise that citizenship is not a right; it should be viewed as a privilege that people earn. It is reasonable for the Government to take the view that citizenship should not be given to certain people. I do not think there is anything wrong with that—it seems a legitimate observation.

Q89 Katie Lam: Perhaps on a related note, you have talked about incentives and mentioned a couple of reasons why people do not come over from France. What is your sense of why people do? Can those incentives be disrupted?

Professor Brian Bell: You would not want to disrupt some of the incentives. For example, the unemployment rate is 7.8% in France and 4.4% in the UK. The gap is slightly larger for young people than for the population as a whole. I am sure the Government would not want to change that incentive, although the French probably would. If you have a buoyant economy relative to your neighbour, at least in the labour market, that is an incentive. There is an incentive in terms of things that you would not necessarily want to change. The English language is really important as a pull factor, and the fact that there are diasporas already in the country.

There tends to be some evidence that the UK has been somewhat more successful than France at integrating immigrants into society, particularly second-generation immigrants: there is some evidence that whereas employment rates are always very poor for first-generation immigrants relative to natives, that gap narrows quite a bit in the UK when you look at second-generation immigrants. That is less true in France, so people may think the opportunities are better here.

The area where the Government could take action—and they are with the Employment Rights Bill—is that we have lots of employment rights in this country, but do not bother enforcing any of them, because we do not spend money on HMRC minimum wage enforcement teams and the Gangmasters and Labour Abuse Authority does not have enough money to employ people to do all the work it needs to do. If the Fair Work Agency can take over and actually be beefed up, then we can enforce labour standards a bit more and that may discourage people, because one of the attractions of coming to the UK is that our looser enforcement of rules in labour market makes it easier to employ people who are here irregularly.

Q90 Katie Lam: So make it harder to work illegally or outside the rules?

Professor Brian Bell: Yes.

Q91 Tom Hayes: My questions are speculative. First of all, are you familiar with a report by the Centre for Policy Studies called "Here to Stay?"

Professor Brian Bell: Yes.

Q92 Tom Hayes: Could you comment on that? There is a headline figure that says that, in its analysis, the fiscal cost of those who might be granted indefinite leave to remain in the next four or five years would amount to £234 billion.

Professor Brian Bell: That is a speculative number. It is actually extremely difficult to work out the fiscal impact of migration. We are doing it at the MAC at the moment. We can only do it because we have access to data that the CPS could not possibly have. I do not know how you do that kind of analysis without making really very brave—and some may say foolhardy—estimates of what these people are going to do when they are in the UK. To give a very simple example, we currently do not know what dependants do when they come into the country. Let us say we issue a skilled worker visa and a dependent comes in. We will know nothing about what they do because the Home Office, quite fairly, does not pursue finding out about that dependent because they are here legally, but you need to know how much they earn and if they are in a job to work out what their contribution will be over the next 50 to 60 years of their life.

I think it is very dangerous to just make broad assumptions about, "Oh, they are going to be like this and they are going to earn this", and then you can come up with a very big number. I could choose a big group of British people who will also have very big negative effects, because if you just choose people who are low earners and perhaps people who are disabled, you automatically get those numbers because they are entitled to more benefits in the long run, and they do not pay as much tax. I am not particularly sure what that tells us.

Q93 Tom Hayes: I am going to smuggle in a very quick question. Could you comment on the validity of the comparison between the Australian offshore processing immigration approach and the Rwanda scheme? Are they actually comparable, and do you have anything to say about the efficacy of the Australian approach?

Professor Brian Bell: As I understand it, the big difference is that in the Australian system, if your asylum application was granted, you were brought to Australia; the system was just offshore processing of the application. That is very different from the Rwanda scheme, where we were essentially washing our hands of any responsibility going forward for those asylum applicants. The Australian model is worth thinking about if you could find countries that would be willing to process the applications, because we are spending—let us be honest—an absolute fortune on housing asylum seekers here while we consider their claims. If you could find a cheaper and more effective way of doing that, while still recognising that we have the responsibility to take those asylum seekers who have claimed asylum in this country, that would be worth considering.

Q94 Tom Hayes: So it is not entirely appropriate to compare the Australian offshoring approach to the Rwanda scheme?

Professor Brian Bell: I would not have thought so.

The Chair: That brings us to the end of the time allocated for Members to ask questions. On behalf of the Committee, I thank the witness for his evidence.

Examination of Witnesses

Dame Angela Eagle and Seema Malhotra gave evidence.

4 pm

The Chair: We will now hear evidence from Dame Angela Eagle MP, Minister for Border Security and Asylum, and Seema Malhotra MP, Minister for Migration and Citizenship at the Home Office. We will have until 4.20 pm for this panel.

Q95 Matt Vickers: Looking at the changing approach, particularly around the repeal of the Illegal Migration Act, repealing section 2 of the Act removes the obligation on the Government to remove people who arrive here illegally. What is the rationale behind that?

Dame Angela Eagle: The Illegal Migration Act was flawed legislation, which did not actually work. It was so flawed that the previous Government, even though they put it on to the statute book, did not actually commence much of it at all.

Q96 Matt Vickers: On the obligation to remove people who arrive here illegally, whether it is in that Act or in the Bill being brought forward, why are we removing that as a principle?

Dame Angela Eagle: The issue was that we did not think it was possible to make the suite of legislation, which involved the Rwanda Act and the Illegal Migration Act, work together coherently. Its effect was essentially to allow people into the country but make it illegal to process them and leave them stuck in an ever-lengthening backlog and in limbo. The whole approach established by the interplay of those two Acts of Parliament, one of which was barely commenced even though it was on the statute book, had to be taken away so that we could bring some order to the chaos that we inherited from the previous Government, as a result of the practical outcomes of those two pieces of legislation.

Q97 Matt Vickers: I understand that comment, but do you not think that, as part of that approach, it should be an obligation on the Government to remove people who come here illegally?

Dame Angela Eagle: No, we certainly have not said that. As soon as people's asylum claims have been properly processed, and the appeals that they are allowed to make are finished, if they have failed, we will seek to remove those people—but not to a third country.

Q98 Matt Vickers: Further to that, the principle in the previous legislation was that if someone arrived in this country illegally, they could not become a British citizen. That was there in the legislation, but it will not be there when this Bill has gone through. What message does it send to the world if people who break into this country can then go on to gain citizenship?

Dame Angela Eagle: The Home Secretary has made it perfectly clear in the changes to the advice that if you come to this country illegally, we do not expect that you will be granted citizenship.

Q99 Matt Vickers: But we have taken that out.

Dame Angela Eagle: We have taken that out of primary legislation because it was connected with the duty to remove, which was about the interplay of the Illegal Migration Act and the Rwanda Act. As I have just said, it was flawed legislation that did not work in practice.

Q100 Matt Vickers: The Illegal Migration Act also made provisions, in sections 57 and 58, for scientific age verification. We are removing that as well. Why would we want to remove those powers from our agencies? We have seen the consequences for safeguarding and the impact that that could have on young people. Why would we not want to give the agencies all the powers that they could have?

Dame Angela Eagle: There are real issues about the accuracy of scientific age assessment. At the Home Office, we are in the middle of doing work to see whether we can get a system of scientific age assessment that is robust enough to use. We are certainly not ruling it out, but the effects in that legislation were all about the duty to remove—it was about trying to define children. You will remember that in the IMA, the duty to remove excluded children, which perhaps created a bigger incentive for people to claim that they were children when they were not. The scientific age assessment clauses in that Act were related to the duty to remove. Given that we are repealing the vast majority of the Illegal Migration Act in this Bill, we removed those clauses.

I would not, however, want to give the hon. Gentleman the false impression that we have completely abandoned the idea of doing scientific age assessment. Currently, we are trying to assess whether there are ways of doing it that not only are cost-effective, but can be relied on. It is not an easy thing to do; there are no very easy solutions to whether it is accurate. We are exploring those areas ahead of making any subsequent announcements about if—and how, if we do—we use scientific age assessment.

Q101 Matt Vickers: I am sure that we could spend all day arguing about the pros and cons of Rwanda, but specifically, we see the effectiveness of returns agreements where those are in place. For countries where we cannot return people, if those people are not going to Rwanda, where will the Government put them?

Dame Angela Eagle: First, we will always seek to return people if they fail the asylum system, and have had all their claims and appeals, as soon as it is safe to do so. That is the first thing to say, and we must never lose sight of that. Situations in particular countries change—sometimes for the better, sometimes for the worse, as the hon. Gentleman knows. We never give up on that. Clearly, if people are here and have failed, we want them to leave, and we will facilitate them to leave.

Q102 Martin Vickers: What about where we do not have the ability to return—with countries where we cannot return those people? They were going to go to Rwanda; now, where are they going?

Dame Angela Eagle: With all due respect, I do not think they were ever going to go to Rwanda.

Q103 Mike Tapp: Since you started in your role, 19,000 people have been deported, which I believe is a 24% increase on the same period last year. How have you managed to achieve that in such a short time? Combined with the Bill, do you think that that will start acting as a deterrent?

Dame Angela Eagle: One of the important things for the integrity of any asylum system is that if people fail it, there are consequences that are different from those if they do not. It is the hard and nastier end of any asylum system: if you have no right to be here, we will want you to leave—voluntarily, if at all possible. Sometimes we will even facilitate that, but we will return you by force if we have to. The 19,000 returns that we have achieved since 4 July are an indication that we want to ensure that enforcement of the rules is being put into effect more than it was. There had been very big falls in returns, and very big falls in enforcement, and we want to put that right.

Q104 Mr Forster: We have heard a lot of mixed comments in the evidence sessions today, but quite a few witnesses have highlighted that the Bill only tackles half the story of border security, asylum and immigration. It tackles the supply side, not the demand. Based on today, will you consider some potential amendments, or another potential strategy, to attach to the Bill to tackle the whole picture that, as we heard today, people as a country want us to tackle?

Dame Angela Eagle: Clearly, it is important that we try to deal with the development of organised immigration crime on our borders. Colleagues will have heard the comments from the NCA and the National Police Chiefs' Council about how important it is to assert the rule of law in such areas. It is very important. That is the main aim of the Bill.

If the hon. Gentleman is talking about safe routes, we heard some evidence today about safe routes. I am personally sceptical that those would stop people wanting to come across in boats. If one takes the example of our Afghan scheme—a safe route for particular people from Afghanistan who have been put in danger by supporting UK forces—that is a legal route that is safe. At the same time, last year the largest nationality represented among small boat arrivals was Afghans.

We have people arriving on small boats who come from countries where we have visa regimes, so I am not convinced that we could provide enough places on safe routes to prevent people smugglers benefiting from that kind of demand. That is my opinion from having looked at what goes on and I accept the hon. Gentleman might have a different one.

Seema Malhotra: If I may add to that, we also heard in the evidence about the scale of the challenge that we face and how small boat crossings are a relatively new phenomenon, in that we had around 300 in 2018, but the number is now 36,000. In a very targeted way, this Bill is looking at what more tools we can bring in along with the Border Security Command to tackle the criminal gangs that are literally making millions—if not more—out of people who are very vulnerable.

The fact that there were more deaths in the channel in 2024 than in previous years shows that the situation is becoming even more dangerous, so we absolutely have to do everything we can to disrupt those criminal gangs. Therefore, I want to focus on that for this Bill, because we cannot do everything in one piece of legislation.

It is important, however, to correct, from my understanding, a bit of evidence that was given earlier by Tony Smith that the UK resettlement scheme was closed—it is actually still open. We have had over 3,000 refugees resettled via that scheme since its launch four years ago. The number of refugees arriving on that depends on a range of factors, and that includes recommendations from the UNHCR as well as how many offers of accommodation we have from local authorities; that is an ongoing system. This is legislation around tackling the small boats and the criminal gangs that are enabling that as a new trade.

Q105 Mr Forster: If I may briefly follow up, I appreciate the Minister for Border Security and Asylum's thoughts on safe routes. Ukraine has long been held up as a good example: we housed a lot of people safely and one Ukrainian person tried to cross the channel.

To be more specific, I have a follow-up on clause 18. We are creating a new criminal offence of endangering someone on a sea crossing—why is it an unauthorised sea crossing? Why is it not a blanket endangering of someone when crossing the sea? Should that offence not be wider or is it more like an aggravating factor?

Dame Angela Eagle: I will talk about the very detailed aspect of that during our line-by-line scrutiny.

There has been a certain behaviour that has begun to happen, which has been perceived on the crossings in the small boats and which this offence is designed to deal with. That is the various kinds of violent intimidation that goes on, such as putting women and children in the middle of boats that then collapse, so they are crushed and die in that way, or holding children over the edge of boats to prevent rescue.

Sometimes if there has been a fatality on a boat—and we have seen what has happened—we go to pick people up and return them to France. The French authorities also do that. There is then a battle not to be returned and violence is sometimes used to prevent people from accepting the rescue that is offered to them. So there are some very particular things that this endangerment clause and this new offence are seeking to deal with.

Q106 Jo White: Thank you, Ministers, for your evidence. In his evidence, Tony Smith, who retired 12 years ago, was very critical of the role of the Border Security Commander and defined him as a "co-ordinator". Do you believe that the Border Security Commander's powers need to be enhanced?

Dame Angela Eagle: Well, the Border Security Commander is very happy with the powers that he has—he has been appointed. Again, we will talk about this in some detail, but it is important that we get co-ordination across different areas of activity. I think you will have heard what the NCA witness said about how he wants somebody else to do the co-ordination while he does the basic work. Everybody is working together very well across the people who have to have regard. The Border Security Commander is bringing together a range of very important players in this area to strategise and co-ordinate, and he has not told me—I meet him regularly—that he needs any more powers.

Q107 Pete Wishart: I know that we do not have much time, but I have two quick points following the compelling evidence we have heard today. It has been a very good session. One of the things that came across powerfully was the view that this Bill will do very little to actually tackle the gangs; we heard consistently throughout the evidence that, "They'll just adjust their business model; they've got a monopoly on the irregular migration trade, so they are obviously going to do what they can to maintain it."

The other thing is that it will have very little impact on people making the decision to come to the United Kingdom. They are fleeing oppression, poverty and war, and they do not care about the laws of the United Kingdom—what Angela Eagle is doing in a migration Bill is not going to deter them from coming here. So what are we going to do to get on top of this issue? Should we not be thinking, as we go through this Bill process, about fresh, new ideas to tackle it?

Dame Angela Eagle: Well, we have just come out of a period of fresh new ideas and gimmicks—

Pete Wishart: Yes, but that is gone.

Dame Angela Eagle: And very expensive they turned out to be. We have inherited such a mess, with huge backlogs and very long waits for appeals, that we have to try to clear up. We have an asylum system that essentially broke down—I think one of our witnesses was talking about it being "in meltdown" earlier today.

We are going to do the day job and start to get that system working. I think that having fast, fair and effective immigration decisions is a very important part of all of this, as is removing those whose claims fail so that we can actually get to the stage where people know that, if they come to this country and they do not have a reasonable chance of being accepted as an asylum seeker, they will be returned. I think that is what the deterrent is.

Seema Malhotra: If I may add one point, it is absolutely valid and right to say that this Bill is one part of trying to tackle both the criminal gangs and the demand. Certainly, the other side of the work that the Home Secretary has been leading on—in terms of agreements with other countries for returns, as well as the reasons why people are coming and what more could be put in place as a deterrent—is work that was also talked about in evidence today; international diplomacy is also an important part of the overall framework. That is going on in parallel, and it is important to be working upstream through diplomacy and agreements with other countries too.

Q108 Kenneth Stevenson: Listening today has been very interesting; I have written down some of the points. There were the points about organised crime, and about the Border Security Commander and the border post that he—or it might be a "she", and I am not ultra-woke—would be in charge of. There is also the point about 2 million people coming over from Gaza, and that the tagging system has not worked, although I did not hear any evidence of that—I wanted numbers; as an engineer, I wanted to hear the background to that.

I then heard that there were no magical solutions and that war was not easy to win—so we are in a "war" with migrants. We then spoke about unkindness to asylum seekers. I think that the most important words that I heard today were proactive, pre-emptive and disruptive—

[Kenneth Stevenson]

that is what the Government are trying to be. Do you agree that that has to start with the gangs who are starting this and are pulling—or pushing—people across?

Dame Angela Eagle: Yes. There are many genuine asylum seekers, many of whom are granted asylum when they are finally processed, who have come in that way. There are also people who are trafficked, who are in debt bondage, who go into sex work in nail bars, say from Vietnam, or who end up—as the police chief told us—growing cannabis in hidden farms in all our communities or being involved in serious crime. Some of them are victims of modern slavery, and some of them are the perpetrators of all that kind of evil.

The Chair: Order. That brings us to the end of the time allotted for the Committee to ask questions. On behalf of the Committee, I thank the Ministers for their evidence.

4.20 pm

The Chair adjourned the Committee without Question put (Standing Order No.88).

Adjourned till Tuesday 4 March at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

BSAIB01 Work Rights Centre

BSAIB02 Hope for Justice

BSAIB03 Project for the Registration of Children as British Citizens (PRCBC) and Amnesty International UK (joint submission)

BSAIB04 Public Law Project

BSAIB05 Law Society of Scotland

BSAIB06 Migrant Voice and Amnesty International UK (joint submission)

BSAIB07 Angie Pedley

BSAIB08 Law Society of England and Wales

BSAIB09 British Association of Social Workers (BASW)

BSAIB10 Refugee Action

BSAIB11 Anti-Trafficking Monitoring Group (ATMG) and the Anti Trafficking and Labour Exploitation Unit (ATLEU)

BSAIB12 Refugee and Migrant Children's Consortium

BSAIB13 David Coleman, Emeritus Professor of Demography, University of Oxford

BSAIB14 Refugee Law Initiative, School of Advanced Study, University of London

BSAIB15 Stephen Francis MSc

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Third Sitting

Tuesday 4 March 2025

(Morning)

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

not later than

Saturday 8 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, † Dr Andrew Murrison, Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 4 March 2025

(Morning)

[Dr Andrew Murrison *in the Chair*]

Border Security, Asylum and Immigration Bill

9.25 am

The Chair: Will everyone please ensure that they have switched off any electronic devices or turned them to silent mode?

We now begin line-by-line consideration of the Bill. The selection grouping for today's sitting is available in the room or on the parliamentary website. It shows how the clauses, schedules and selected amendments have been grouped together for debate. The purpose of the grouping is to limit, in so far as possible, the repetition of the same points in debate. The amendments appear on the amendment paper in the order in which they relate to the Bill.

A Member who has put their name to the lead amendment in a group is called first. In the case of a stand part debate, the Minister will be called to speak first. Other Members are then free to indicate that they wish to speak in the debate by bobbing. At the end of the debate on a group of amendments, new clauses or schedules, I shall call the Member who moved the lead amendment or new clause to speak again. Before they sit down, they will need to indicate whether they wish to withdraw the amendment or the new clause or seek a decision. If any Member wishes to press to a vote any other amendment in a group, including grouped clauses and new schedules, they need to let me know.

I hope that that brief explanation is helpful. I remind Members about the rules on declaring interests, as set out in the code of conduct.

Clause 1

The Border Security Commander

Matt Vickers (Stockton West) (Con): I beg to move amendment 10, in clause 1, page 1, line 6, leave out

"designate a civil servant as the"

and insert "appoint a".

This amendment would remove the requirement for the Border Security Commander to be a civil servant.

The Chair: With this it will be convenient to discuss clauses 1 and 2 stand part.

Matt Vickers: It is a pleasure to serve under your chairmanship, Dr Murrison. The subject of this Bill is incredibly important to this country and its future. I hope that, during the next two weeks, the Committee will give us a constructive opportunity for the consideration and strengthening of the Bill.

Let me briefly outline our first amendment. Clause 1 creates the Border Security Commander as a statutory office holder, and requires that the Secretary of State must designate a civil servant as the Border Security Commander. As Tony Smith, former director general of the UK Border Force, said in evidence to the Committee:

"I am not sure he will actually be able to command anything. He is probably going to be more of a co-ordinator."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 40, Q43.]

That is why we tabled amendment 10, which would remove the requirement for the Border Security Commander to be a civil servant.

The status of the Border Security Commander—as well as the commander's functions and priorities, which I will come to in discussions on later amendments—is crucial if the role is to be in any way meaningful. As the Minister is aware, there are organisations that do not require civil servants to run them. Such a structure ensures their independence and reduces the internal day-to-day political struggles that can easily be imposed on them. Allowing recruitment from outside the civil service may also provide a wider talent pool and prevent the role from being relegated to that of yet another senior civil servant in the Department. We heard evidence about the wide array of roles in the Home Office already. The amendment would highlight the clear distinction between existing positions and the importance of securing our borders.

I would be grateful for the Minister's answers to the following questions. Why have the Government decided that the Border Security Commander must be a civil servant? What is the operational benefit of that decision? Why would the Border Security Commander not benefit from greater independence? What level of seniority will the Border Security Commander have? In evidence to the Committee, Tony Smith assumed that the post would likely be a director general. Is he correct? If so, why have the Government made that decision? Fundamentally, if Mr Smith is correct and the Border Security Commander cannot actually command anything—we will discuss that in detail when we come to later amendments—what is the point of the position?

Clause 2 sets out that the Border Security Commander must

"hold and vacate office in accordance with the terms and conditions of the Commander's designation,"

and that the

"terms and conditions of a designation as Commander are to be determined by the Secretary of State."

That is all the information we get. Will the Minister explain what the terms and conditions of a designation as commander will be? Let us compare the situation of the Border Security Commander, who is allegedly responsible for the security of our border, with that of the Metropolitan Police Commissioner. The Police Reform and Social Responsibility Act 2011 sets out that the commissioner has to be suitably qualified; will the Minister explain why no such requirement appears to exist in the legislation for the Border Security Commander? What would count as suitable qualifications for someone to take up the post of commander?

If the Secretary of State determines that a person's designation as commander should be terminated, the Secretary of State must give the commander a written

explanation of the reasons, give them an opportunity to make written representations and consider those before making a final decision. That seems sensible and in line with other positions, such as the Met Commissioner, that ought to be vaguely comparable in terms of responsibility.

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure to serve with you chairing our proceedings, Dr Murrison, and I look forward to many hours of that—as I am sure you do.

I will set out what clauses 1 and 2 do and hopefully persuade the Committee that amendment 10 is not required. The clauses set out the role of the Border Security Commander and detail the terms and conditions under which they hold the office. The purpose of the Opposition's amendment 10 is to remove the requirement that the Border Security Commander be a civil servant. The hon. Member for Stockton West—I will learn all Members' constituencies by the time we get to the end—seemed to say that he thought there was operational benefit in complete independence. I suppose that is one way of looking at it, but there is also benefit in co-ordination and in being attached to a central strategic point. The Government believe that that attachment, rather than total independence for the sake of it, is more likely to be effective.

Amendment 10 implies that the Border Security Commander should not be a civil servant. The role of the commander is a civil service role and the Border Security Command is a directorate within the Home Office. In a future recruitment exercise, existing civil servants could be appointed or the role could be advertised externally. Under the arrangements in clause 1 there is no limit one way or the other on where the Border Security Commander might come from—they could be internal or external. I hope that is some reassurance.

The mechanism of appointment is a civil service recruitment campaign to ensure that the best candidate is selected on merit. Given that the role sits within the Home Office and leads the functions of a directorate in the Department, it is logical that the role would be a civil service role. The idea is to cohere, not to fragment the work that is done. I see it very much as ensuring that all the cogs across Government connect with one another, so that when we turn the wheel we get something out at the end, rather than having a load of cogs that do not connect, which would not lead to a more effective outcome.

Clause 1 sets out that the Secretary of State must designate a civil servant as the commander and will make the necessary arrangements to ensure that resources are available to support them in exercising their functions. The Bill will place the Border Security Commander on a statutory footing, which will future-proof and solidify the role and ensure a clear direction and leadership for the UK's border security system. Placing the Border Security Commander under this new legal framework is a clear signal of our determination to tackle organised immigration crime by going after the criminals who put lives at risk and undermine our border security.

Clause 2 details the commander's terms and conditions and how they will hold, maintain and vacate the office. This clarity is necessary to ensure continuity in the role, and it underlines the Government's commitment to making the Border Security Commander an enduring office.

Katie Lam (Weald of Kent) (Con): We on the Opposition Benches struggle to understand why the law must set out that the Border Security Commander must be a civil servant. The Minister said that amendment 10 implies the commander should not be a civil servant, but all it seeks to do is remove the requirement that they should be. If the Home Secretary and, presumably, the Home Office permanent secretary believe that the role is best filled by a civil servant, perhaps for the reasons of co-ordination that the Minister set out, so be it—they can still be appointed as a civil servant—but the legislation will mandate that they have to be, and we struggle to understand why that requirement is necessary.

Dame Angela Eagle: I made it clear in my response to the hon. Member for Stockton West that the recruitment could be done externally. Were somebody to be appointed who was not a civil servant when they applied, they would then come into the Home Office on civil service terms, bringing with them whatever experience they had and that the recruitment process had determined would be suitable for the role. I am not sure there is much between us, unless the hon. Lady is implying that, by the act of becoming a civil servant, the commander would somehow be less effective. I do not believe that is the case, especially as the idea is to ensure that the Border Security Commander can convene the entire system across Government Departments. Having a base in the Home Office, albeit designated as a civil servant, will make that more effective rather than less effective. To be clear, if the legislation gets on the statute book, any future office holder would not have to come from the civil service. I hope that reassures the hon. Lady.

Katie Lam: I thank the Minister for that response, which is reassuring, but it does not quite address the concern. These issues are very difficult, and I presume the Minister accepts that it is possible that it might be better, either in due course or in relatively short order, for the commander to be operationally independent. If that is the Home Secretary's judgment as time goes on, the Government will have to come back to Parliament to change the law. Would it not be better for them to give themselves the flexibility?

Dame Angela Eagle: The hon. Lady implies that total independence from the machinery of government would somehow assist in the job that we wish the Border Security Commander to do. I do not agree with her in that analysis. The job of the Border Security Commander is to convene and cohere and to strategically focus, across Government Departments, with a focus on checking that our border security is as effective as it can be. I do not think that total independence is going to add to effectiveness in that context. In fact, we believe that having the commander operating out of the Home Office at a director general level, but appointed by the Prime Minister with a special place in primary legislation, is a more effective way to ensure that the commander's basic role has the biggest-percentage likelihood of being effective.

Mike Tapp (Dover and Deal) (Lab): The Minister has been clear that we can of course recruit from outside the civil service, and that being within the civil service equips the person with the powers, the tools and, of course, the access to be effective in the role.

[Mike Tapp]

I am slightly concerned that the hon. Member for Stockton West tabled the amendment off the back of oral evidence from Tony Smith, who—with full respect—retired from his role 13 years ago. The director general of the National Crime Agency gave evidence on the same day as Tony Smith, and he said:

"For me, I have worked really closely with Martin Hewitt already, and it works well. It allows me to focus on the operational leadership of tackling the organised crime threat and Martin to have the convening power and to work across Whitehall on a range of issues. It provides clarity, and we have more than enough to get on with in the NCA in tackling…organised crime".

Jim Pearce, the National Police Chiefs' Council lead on organised immigration crime, then said:

"I sit on Martin's board, so strategically I am heavily involved, and members of my team sit within the operational delivery groups. Speaking from a personal point of view, his strategic plans over the next few years make absolute sense in terms of what he is seeking to achieve for the Border Security Command."—[*Official Report, Border Security, Asylum and Immigration Bill Public Bill Committee,* 27 February 2025; c. 38, Q42.]

Dame Angela Eagle: I thank my hon. Friend the Member for—is it Dover?

Mike Tapp: Yes, Dover and Deal.

Dame Angela Eagle: I was just checking that I had my hon. Friend's entire constituency name. They have all changed, Dr Murrison, which can be a bit disorientating because I am used to the old names.

My hon. Friend is exactly right. He demonstrates, through the evidence we heard—particularly from the NCA, the Crown Prosecution Service and the police chiefs last Thursday—that there is and was a strategic gap. Everybody is doing fantastic work in the NCA, the police, His Majesty's Revenue and Customs and the security services, but nobody had taken a focused look at how border security could be delivered most effectively. From the meetings I have had since Martin Hewitt took up his post, it seems there is almost relief that somebody is convening a board that can look at analytics on where the threats are, how they are developing and how we can best deal with them, and do the legwork to come up with a strategy focused on border security. That is the whole point of creating the command.

Chris Murray (Edinburgh East and Musselburgh) (Lab): It is a pleasure to serve under your chairmanship, Dr Murrison. I would like to make a couple of points about the amendment.

As the Minister set out, clause 1 does not mean that someone who is not a civil servant cannot apply for the role. We have to be careful not to have an old-fashioned view of how the civil service operates. External candidates are increasingly common nowadays as outside specialisms are required by the Government, even for roles that are not particularly senior.

Even if an external candidate applies, they will get the support of the civil service. The role compares to Home Office roles such as the independent chief inspector of borders and immigration and the commissioner on modern slavery, who are separate from the Home Office apparatus and often report—especially at the Home Affairs Committee—that they do not get the support and structural backing they need. Clause 1 would obviate that. The commander will also be subject to the civil service code, which is important given the high levels of public expectation for the role.

The one difference between this and other directors general, and other senior figures in the Home Office, is that the role is set out in primary legislation. We will thereby create a distinction for the role by passing the Bill. The shadow Minister suggested that we should discuss the suitable qualifications for the role, but the role is very operational so we should be wary of setting out in legislation or in this debate the exact specifications of every task.

Finally, we must be careful of the pendulum swinging in one direction with one Government and then, with a change of Government, straight back in the other direction, meaning we repeat the mistakes of the past. When the coalition Government came into office in 2010, Home Secretary Theresa May—now Baroness May—restructured the UK Border Agency, as it was under the Labour Administration. She commented at the time that the UKBA had been structured in such a way as to be so independent that it would

"keep its work at an arm's length from Ministers—that was wrong. It created a closed, secretive and defensive culture. So I can tell the House that the new entities will not have agency status and will sit in the Home Office, reporting to Ministers."—[*Official Report*, 26 March 2013; Vol. 560, c. 1500.]

Although we are trying to correct what has clearly gone wrong over the previous 14 years of Conservative government of Border Force, it is important that we do not overcorrect and go back to the situation we were in before, which Baroness May pointed out did not work then.

9.45 am

Dame Angela Eagle: My hon. Friend makes some very good points, particularly about over-correction between Governments but also about the fact that independence is an obvious thing to have for particular posts—in inspection, for example, but not necessarily operational ones—and the need to cohere a system, to ensure that all the good work being done across different Departments can be focused strategically on one aim. That is what the clauses seek to do.

Tom Hayes (Bournemouth East) (Lab): It is a pleasure to speak under your chairpersonship, Dr Murrison. I want to take on a principled point that I have heard levelled by the hon. Member for Stockton West and other Conservative Members today and on Second Reading, which is that the Border Security Commander cannot command. It is really important to address that point.

From 2018 to 2023, we saw the number of small boat arrivals increase from 299 to 29,500. That is a hundredfold increase. As I understand it, some of the explanation given by the Conservatives is that the matter became very complicated, and we were seeing an increase in organised crime activity. To their credit, that was reinforced by the director general of the National Crime Agency, Rob Jones, who said

"The problem that I focus on is the organised crime element, which needs concurrent effort in a number of areas, designed to undermine the business model that supports organised immigration crime. That means tackling illicit finance; the materials that are

used in smuggling attempts and the supply chain that supports them; the high-value targets based overseas who are involved in supplying materials and moving migrants".—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 29, Q28.]

Those were just some of the things he highlighted.

If we acknowledge that the present Government face a more complicated situation, we should agree that it will involve a suite of tools. As Rob Jones said,

"There is not one thing that you can do to tackle these problems". —[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 29, Q28.]

Sarah Dineley, the deputy chief Crown prosecutor, concurred with her colleagues and said:

"I do not believe that there is one single measure that would impact so significantly that it would reduce migrant crossings to zero."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 30, Q28.]

Jim Pearce, the National Police Chiefs' Council lead for organised immigration crime, highlighted the same point.

If the situation is so complex and there is a need for the suite of tools that are being strengthened by this Bill, surely there is a need for greater co-ordination. Greater co-ordination will surely help to fix some of the strategic challenges that our immigration system and asylum system have faced in recent years. To co-ordinate is to command, and it is crucial we accept that point. If we do not, we will not be able to tackle the backlog we face, we will not be able to implement the measures in the Bill and we will not be able to secure our borders.

Amendments have been tabled in relation to aspects of the Border Security Commander role, but I am not entirely certain whether the Conservative party supports the role of Border Security Commander at all. On Second Reading, we heard colleagues asking what Martin Hewitt is doing with his time. I would welcome the hon. Member for Stockton West explaining whether the Conservative party does in fact support the role of Border Security Commander and Border Security Command. We heard clearly from those who gave oral testimony, who are operationally focused, experienced and expert in their field, about the necessity of such a command. Indeed, Enver Solomon, the chief executive of the Refugee Council, summed it up well when he said that

"the Border Security Command is an understandable response."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 5, Q1.]

Matt Vickers: We will discuss when we come to the next group of amendments the aims and objectives of this role, and the fact that if we are going to have a Border Security Commander, they should have a very meaningful role that can make a real difference. I would like to press on clause 2 of the Bill, which talks about

"The terms and conditions of a designation as Commander are to be determined by the Secretary of State."

I would be grateful if the Minister could explain to the Committee what those terms and conditions of designation might be? As I mentioned, the Police Reform and Social Responsibility Act 2011 sets out how the Met commissioner must be suitably qualified. What sort of qualifications could we expect to see in a commander and what will those terms and conditions be?

Dame Angela Eagle: I do not want to read out the job description, which was put out there ahead of Martin Hewitt being appointed last year. It is there for all to see, it is a public document. The role is very much about being able to operationally cohere the system and to make certain by the operation of the Border Security Commander's board, upon which sit many of the other parts of Government that need to have regard to the strategy, that we decide how to take forward and deal with threats to our border security. It is not really rocket science, and I do not think that there would be much to be gained from putting the details of all of that into primary legislation.

It is important that as the threats to our border security evolve, which they certainly will do over time, that we do not find ourselves with a very rigid set of requirements in primary legislation, which is hard to change. The idea is to have convening powers to give flexibility to the commander to ensure that he can bring together all of the forces across Government that are charged with security in this area and ensure that the focus on organised immigration, crime and border security is always at the forefront of the work that they do.

Katie Lam: I am a little confused by some of the contributions from Labour Members. They seem to be advocating for the commander to be a civil servant, and that is fine, but that is not actually what we are discussing. The question here is whether there could be any benefit in having some flexibility for the Home Secretary to do something different, and we do not feel that that point has been answered.

Dame Angela Eagle: Could the hon. Lady go into more detail about what she means with respect to that? I have given her an assurance that the Border Security Commander could come from outside of the civil service and be appointed from outside of the civil service, but would then take up a civil service role of convening within Government and with the support of Government. That means that we do not have to set up an entirely new independent structure and fund it separately, which would be more likely to disintegrate rather than integrate the strategic approach to this multifaceted problem. I am beginning to wonder what the hon Lady has got against civil servants?

Katie Lam: Nothing whatever. There are lots of parts of the Home Office where the principle is accepted, that sometimes, particularly for difficult things and things that the Department has struggled to achieve, independence can be valuable. It sounds like the Minister is saying that she does not feel that that is the case. We must accept that, but we do not have to agree with it.

Dame Angela Eagle: It is true that independence has a very valuable part to play, particularly in holding Government structures to account. For example, the independent inspectors of our detention or prison estates who are allowed to go in and publish without fear or favour regarding what they find there. That is obviously a very important role where independence matters. But in this context, the Border Security Commander is cohering the effect and the work across Government that is trying to keep our borders properly protected. That is operational. It ties into the diplomatic and political as well, although obviously Ministers have an important part to play in that too.

[Dame Angela Eagle]

The hon. Lady has nothing to worry about when it comes to the Border Security Commander sitting in a civil service context given that nothing in this Bill means that anyone who was not a civil servant when they applied to the post of Border Security Commander would be excluded from consideration. Being in the civil service to begin with is not a requirement.

Matt Vickers: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 1 ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3

Functions of the Commander

Pete Wishart (Perth and Kinross-shire) (SNP): I beg to move amendment 1, in clause 3, page 2, line 29, at end insert—

"(1A) In exercising the Commander's functions, the Commander must have full regard to the provisions of—

(a) the Human Rights Act 1998; and

(b) the Council of Europe Convention on Action against Trafficking in Human Beings."

This amendment would confirm that the Commander must have full regard to the Human Rights Act and the European Convention on Action against Trafficking.

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

Amendment 12, in clause 3, page 2, line 36, at end insert—

"(2A) The strategic priority document issued under subsection (2) must support the Home Office's UK Border Strategy."

This amendment would require that the Border Security Commander's strategic priority document supports the UK Border Strategy.

Amendment 13, in clause 3, page 2, line 36, at end insert—

"(2A) The Home Secretary may give direction to Border Force, Immigration Enforcement, Police and Crime Commissioners (PCCs) and the National Crime Agency to support the Border Security Commander in the delivery of the Border Security Commander's objectives and strategic priorities.

(2B) The Home Secretary's powers under subsection (2A) must not be used to interfere with the democratic mandate of the PCC within a force area, nor seek to interfere with the office of constable or operational independence of the chief constable or the operational independence of the National Crime Agency, unless the Home Secretary is satisfied on the advice of HMICFRS that not to do so would result in a police force of the National Crime Agency failing or national security being compromised."

This amendment would enable the Home Secretary to direct other agencies to support the Border Security Commander's objectives and strategic priorities.

Amendment 11, in clause 3, page 2, line 41, leave out subsection (b).

This amendment would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State before issuing the strategic priority document.

New clause 7—*Duty to meet the director of Europol*—

"The Border Commander must meet the director of Europol, or their delegate, no less than once every three months."

This new clause would require the Border Commander to meet with the Executive Director of Europol every three months.

New clause 21—*Functions of the Commander in relation to sea crossings to United Kingdom*—

"(1) In exercising the Commander's functions in relation to sea crossings to the United Kingdom, the Commander must have regard to the objectives of—

(a) preventing the boarding of vessels, with the aim of entering the United Kingdom, by persons who require leave to enter the United Kingdom but are seeking to enter the United Kingdom—

(i) without leave to enter, or

(ii) with leave to enter that was obtained by means which included deception by any person;

(b) ensuring that a decision is taken on a claim by a person under subsection (1)(a) within six months of the person's arrival in the United Kingdom; and

(c) making arrangements with a safe third country for the removal of a person who enters the United Kingdom without leave, or with leave that was obtained by deception.

(2) The Commander must include, in the strategic priority document issued under section 3(2), an assessment of—

(a) the most effective methods for deterring illegal entry into the United Kingdom;

(b) the most effective methods for reducing the number of sea crossings made by individuals without leave to enter the United Kingdom; and

(c) the most effective methods for arranging the removal, to the person's own country or a safe third country, of a person who enters the United Kingdom illegally.

(3) For the purposes of this section—

(a) 'sea crossings' are journeys from dry land in France, Belgium or the Netherlands for the purpose of reaching dry land in the United Kingdom; and

(b) illegal entry to the United Kingdom is defined in accordance with section 24 of the Immigration Act 1971 (illegal entry and similar offences)."

This new clause sets out objectives and strategic priorities for the Border Security Commander in relation to sea crossings and arrangements with a safe third country for the removal of people who enter the UK illegally.

Pete Wishart: It is a pleasure to serve under your chairship, Dr Murrison. It is a good 10 years since I have had the pleasure and privilege of being on a Public Bill Committee—or Standing Committee, as we used to call them back in the day—and I hope that it will be as much fun as I remember. Ten years ago, I was the home affairs spokesperson, and I saw a number of Bills quite like this one: good old-fashioned "stop them coming and boot them out" Bills. There has been a succession of them over the years from various Governments. The Minister knows that I hold her in great respect and affection, and I wish her particularly well with the Bill.

Dame Angela Eagle: I hold the hon. Gentleman in similar affection. We are pretty long in the tooth—we are the two people who are the most long in the tooth on this Bill Committee—and I look forward to listening to his arguments.

Pete Wishart: I am grateful to the Minister for that. I would hate to think of our combined number of years in this House, but certainly we have almost spanned half a century.

The first 12 clauses are totally dedicated to putting the Border Security Commander into statute, and the first three list his functions, and outline and define some of his responsibilities. The Bill states that the Border Security Commander must be appointed by the Home Secretary and will be obliged to prepare annual reports. A board will be appointed

"to assist the Commander in the exercise of the Commander's functions."

I do not know about other hon. Members, but the last time I looked there already was a Border Security Commander, who is doing the job as outlined in the Bill effectively, pretty much as the Home Secretary has been directing him, without needing to have been put into statute. If my mind does not deceive me, I remember Martin Hewitt being appointed as the commander and doing all these things, but here he is, 12 clauses of a Bill better off, and secure in the knowledge that he is now in statute.

All that makes me think of the BBC Scotland series "The Chief", which as Scottish members of the Committee will know is the fantastic new spin-off of "Scot Squad". It features the mythical and fantastic character Chief Commissioner Miekelson. He is a complex character. A bit self-aggrandising, he is always getting himself on the wrong side of various issues around the culture wars, which he is pretty uncomfortable with; he always manages to upset or offend somebody. I am sure that he is the exact opposite of Commander Hewitt, who I believe is modest, nice and easy to get on with—I have not had the pleasure of meeting him so far. However, they have a couple of things in common, which I want to explore as we look at the functions of the commander.

It strikes me that Commander Miekelson would love to be in statute; 12 clauses of a Bill—he would look at this as some great calling card. They face similar threats: for Commander Miekelson, it is the bams who make his life a misery and whom he needs a whole load of new powers to deter; for Commander Hewitt, it is the illegals. As we go through the Bill, let us wish Commander Hewitt and Chief Commissioner Miekelson all the best as they tackle these threats.

Chris Murray: Does the hon. Gentleman accept that although Commissioner Miekelson is a fictional character, the role was created by statute—by the SNP Scottish Government when they created Police Scotland?

10 am

Pete Wishart: Police Scotland has a chief constable who is in charge, but in "Scot Squad", Commissioner Miekelson is a chief commissioner. It is only right that we point out these distinctions; there is a significant difference between that mythical, fictional character and the reality of the role of chief constable, which is very efficiently and effectively looked after by the current inhabitant of that post.

I know you want me to get on to the particular amendment, Dr Murrison, so thank you for your forbearance and patience. My amendment confirms that the,

"Commander must have full regard to…the Human Rights Act 1998; and…the Council of Europe Convention on Action against Trafficking".

The Minister is likely to tell me that none of that is necessary as human rights compliance is already implicit with Government operations. However, without these explicit legal mandates and safeguards, all of that can be overlooked. If the Minister is asking us to agree to 12 clauses at the outset of a Committee for an important Bill, relating to a job that is already being done, surely we can agree that one of these functions should be about the observance of our very important international obligations under the Human Rights Act 1998 and the Council of Europe convention on action against trafficking in human beings.

I do not think anybody is opposed to the border commander; I know there are a few jokes about his comparison to Chief Miekelson, but all of us agree that the Minister is establishing a necessary and useful role. I do not think, even though she was trying to chide her Conservative colleagues, that there was much disagreement from anybody on whether this is a useful role that could help bring together quite a lot of the structure and infrastructure that is responsible for operating our border security. There is a discussion about a lot of his tasks being administrative. There is nothing wrong with that, but for something as important as this, everybody would like to think that where there is administration, it will be effective and put in place in a way that we could look at it.

However, we need further clarity on the roles, functions and responsibilities of the border commander. Clause 3 is supposed to be the place where we find all of those things, but the one thing that the clause does not do is outline fully, perfectly, roundly and coherently what the actual functions of the border commander will be. Even if we look very carefully in all the different subsections, it does not say much about what he is expected to do. It lists a number of administrative responsibilities he will have, which is fair and fine, but all of us discussing the role of the border commander in the Committee would like to understand what he will be doing—what are his jobs, what are his functions, what responsibilities will he have, how will these things be discharged, and how will he be open to the type of scrutiny that we, as Members of this House, require?

There are provisions that seem to speak about the functions without actually identifying any of them. The only place where we can find objectives in clause 3 is subsection (1), but they are only objectives to which the commander must have regard. That is important. It just says he must "have regard" to the particular responsibilities that are outlined in the subsections. Subsections (7) to (9) are particularly interesting because they seem to suggest that people smuggling and human trafficking to the UK are to be regard as threats to border security. That seems fair enough; most of the Bill is about the perceived threat—disrupting networks and tackling the gangs that operate their vile trade across the channel.

Here is the thing: the people who board these boats are subject to the constraints imposed by these gangs and are at their mercy. They are controlled and reliant. Those people are totally and utterly ignored in the subsections in clause 3. Their realities—their need and right to seek safety, reunite with family and escape situations of extreme deprivation—are ignored, even

[Pete Wishart]

though they have everything to do with the responsibilities and functions of the commander. As a matter of principle, then, it is vital that the Bill should be amended so that the Border Security Commander has regard to objectives concerned with respecting human life and dignity, and that must include specific shared obligations to provide asylum to people fleeing persecution and to enable victims of human trafficking to have security and safety from their enslavement.

There are concerns that, if border enforcement strategies do not include these protections for vulnerable individuals and victims of modern slavery, trafficking victims will enter further cycles of exploitation. In prioritising enforcement over protection, as the Bill does almost exclusively, we risk wrongfully criminalising victims of trafficking and failing to identify those in need of urgent intervention—or, worst of all, sending them back to their exploiters. If we stand by our commitments under the Council of Europe convention on action against trafficking in human beings, the Bill should ensure that the commander respects those obligations too.

As we have discussed, the commander is a civil servant. I have taken no great view on that, and I listened carefully to the exchanges about the civil service role, but I have a couple of concerns in relation to my amendment 1 that I would like the Minister to address. The civil service code does not give a clear, enforceable duty to respect the UK's obligations under international law. I am pretty certain that the Minister will tell me that there is a general obligation to comply with the law and our international obligations, as that is expected and anticipated in everything that the Government do through all their responsibilities and actions.

However, I refer the Minister to the recent case in the High Court. That was, of course, R (on the application of FDA) *v.* Minister for the Cabinet Office and others. I think the Government actually won that court case, which meant that any of the civil servants who were involved in compiling regulations had to abide by the legislative context but did not have to oblige and comply with the international obligations. At best, it is unclear, so I ask the Minister to clarify: will the Border Security Commander, who will be a civil servant, always be obliged—totally and utterly—to fully respect all our international obligations, particularly those around the HRA and the ECAT?

Without those specific obligations in the Bill, the Border Security Commander will be presumed always to prioritise enforcement over vital legal protection, potentially leading to human rights violations. Although the commander is required to comply with instructions set by the Home Secretary, which again I think everybody would accept is right and appropriate, they are not explicitly required to comply with the UK's human rights obligations. For me, that is totally wrong, and it completely skews the whole modus operandi of our Border Security Commander and features of the Bill. I will come back to that as the Bill progresses.

We need to see this change to the Bill. We have 12 clauses and various subsections dedicated to the role and the functions of the commander. Let us have one—just one—that says that he must be prepared and obliged always to act in line with all of our obligations on international responsibility, being a good international actor, being a place that is recognised for exemplary human rights requirements and being signed up to the HRA and to ECAT. Let us put that in the Bill.

Matt Vickers: I have not come across Chief Commissioner Miekelson before, but I will endeavour to catch up on Netflix or iPlayer.

Dame Angela Eagle: We are all going to be doing that.

Matt Vickers: Clause 3 sets out the functions of the Border Security Commander. The shadow Home Secretary, the right hon. Member for Croydon South (Chris Philp), correctly pointed out on Second Reading that the new Border Security Commander

"cannot actually command anything. There are no powers at all in the Bill, merely functions. They include, in clause 3, publishing a strategic priority document and, in clause 4, a duty to prepare an annual report…the Border Security Commander has no clear powers, merely an ability to publish documents and reports."—[*Official Report*, 10 February 2025; Vol. 762, c. 69.]

According to the legislation, the functions of the commander

"must have regard to the objectives of…maximising the effectiveness of the activities of partner authorities relating to threats to border security, for the purpose of minimising such threats, and…maximising the coordination of those activities for that purpose."

That sounds suspiciously like a co-ordinator, rather than a commander. That is exactly what the legislation states: the commander does not appear to be empowered by the Bill to command anyone.

Subsection (5) defines a partner authority as a

"public authority with functions in relation to threats to border security (whether exercisable in the United Kingdom or elsewhere)",

but—in subsection (6)—

"not…the Security Service…the Secret Intelligence Service"

or "GCHQ".

Will the Minister confirm what is meant by partner authorities? Does she have a list of likely organisations that the Border Security Commander should be able to direct co-operation with? How far does she think that the Border Security Commander will be able to have an impact on public authorities abroad? For example, what role might French law enforcement be expected to play in having regard to the commander's strategic priority document?

The Opposition have tabled amendment 13, which would enable the Home Secretary to direct other agencies to support the Border Security Commander's objectives and strategic priorities, specifically Border Force, Immigration Enforcement, police and crime commissioners and the National Crime Agency. Ideally, we would like the Border Security Commander to have a meaningful role and the ability to direct other agencies. As the Government seem unwilling to do that, however, we thought it might be possible for the Home Secretary to give the Border Security Commander a little support.

If the Minister does not want to accept amendment 13, I would like to understand why not. Why do the Government seem willing to allow the commander only to co-ordinate, rather than to command? Why could the Home Secretary not add some additional impetus?

The clause requires the Border Security Commander to issue a strategic priority document that sets out the principal threats to border security when the document is issued, and the strategic priorities to which partner authorities should have regard in exercising their functions in relation to any of the threats to the border identified by the commander. We have tabled amendment 12 to ensure that the strategic priority document supports the Home Office's UK border strategy. We are attempting to ensure that the Border Security Commander is aligned with the rest of the Home Office's work to secure the border. I am interested to understand why the Minister is not willing to accept that amendment.

Becky Gittins (Clwyd East) (Lab): It is a privilege to serve under your chairship, Dr Murrison. Given the representations made by the hon. Members for Stockton West and for Weald of Kent, something seems strange and I would appreciate an explanation. The hon. Member for Stockton West is speaking to amendment 12 and the necessity of supporting the Home Office's UK border strategy. Given the hon. Member's comments about the Border Security Commander having a role within the civil service, why does he want the commander to adhere to the Home Office's UK border strategy, which is headed up by a director general who is a civil servant?

Matt Vickers: If we are to have such a position, we want it to be effective and have the relevant powers, but we also want it to be aligned with the other priorities of the Home Office and the work going on there. I think that is clear.

Amendment 11 would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State before issuing the strategic priority document. We would like to understand the operational benefits of the Secretary of State having to sign off the strategic priority document, which again highlights the lack of a meaningful role for the Border Security Commander. Although the strategic policy document should set out what are, in the commander's view, the principal threats to border security and the strategic priorities to which partner authorities should have regard, in reality the document is a diktat from the Secretary of State about the Secretary of State's views, and that arguably exposes a lack of influence and gravitas in the Border Security Commander's role.

Allowing the commander to issue a strategic priority document without seeking prior permission from the Secretary of State would provide a welcome level of independence for the role. The oversight and consultation of the board would ensure confidence in the Border Security Commander's ability to take all necessary steps to stop the crossings. There may be occasions when the commander believes it is necessary to act swiftly and to implement changes without delay. Removing the requirement to have ministerial consent would allow them to act decisively. That approach, I am sure, could subsequently be supported by the Secretary of State.

Chris Murray: What, then, is the hon. Gentleman's view of how UKBA functioned? In her testimony, Theresa May said that, where it had that kind of independence, it became "closed, secretive and defensive", and she had to completely restructure UK border defence because the independence that the hon. Gentleman is talking about actually made it difficult for Ministers to have proper oversight.

10.15 am

Matt Vickers: When we talk about the Border Security Commander role, if we think it is going to "smash the gangs", sort out all these problems and play a huge part in creating a secure border for this country, it is important that we allow it some element of independence and gravitas. We have talked about the commander being tied into the strategic priorities of the Home Office, but this amendment is about empowering them to make the difference that we want them to make. We want them to succeed.

As I was saying, removing that requirement would allow the Border Security Commander to act decisively. We must avoid unnecessary bureaucratic wrangling and ensure that, in this critical matter, they have the freedom they need to deliver results.

Tom Hayes: I have two quick points. First, the hon. Member talked about whether the Border Security Commander could somehow command or direct the activities of our international partners. I would highlight that this Government have strengthened and created the new international arrangements that have made it possible for us to start to secure and securitise our borders. It is important not to pretend that the history of what has happened did not happen; we should realise that we need to have close international ties.

Secondly, I am listening closely to the hon. Member's suggestions for how the role could be improved. Is he proposing these amendments because the current office holder, Martin Hewitt, is not discharging the office in the way that he would like? Could he comment on whether he thinks that Martin Hewitt is doing a good job or a less-than-good job, and whether he thinks that the Border Security Commander role, as it is currently being discharged, is satisfactory?

Matt Vickers: At some point, Martin Hewitt will be superseded. We want to make sure that whoever is in this role is in the best possible position to do the best possible job. I do not think that these measures are necessarily about Martin Hewitt's effectiveness or otherwise; they are about this post and its fundamental role—well, its apparent fundamental role—in delivering border security for this country.

Tom Hayes: It is not about Martin Hewitt's professional competence or his ability as a person to do the role; it is about the role itself. Based on how the role has been configured, does the hon. Member believe that the present office holder is discharging the role well, with the responsibilities given, or is he proposing these measures because he believes that somehow the role is lacking?

Matt Vickers: I think there is an opportunity to strengthen this role so that it can provide that real fundamental change that we are apparently looking for in this Bill. I would not necessarily want to comment on the individual.

We have tabled new clause 21 to set out some clear and measurable objectives for the Border Security Commander, to attempt to give this co-ordinator some clear direction. New clause 21 would set out that, in exercising their functions, the commander

"must have regard to the objectives of…preventing the boarding of vessels, with the aim of entering the United Kingdom, by persons who require leave to enter the United Kingdom but are

[Matt Vickers]

seeking to enter the United Kingdom…without leave to enter, or…with leave to enter that was obtained by means which included deception".

In effect, we want it in black and white in the Bill that the commander will be given the objective of reducing illegal entry to the country, and that is what new clause 21 would achieve.

Since 2018, when the figures were first recorded, more than 150,000 people have arrived in small boats. As of 29 January, 1,098 people had crossed the channel since the start of 2025. In 2024 as a whole, 36,816 people were detected making the crossing. I would like to understand why the Government do not think it is worthwhile to give the Border Security Commander the direct objective of reducing or even ending those arrivals.

We also wish to ensure that those who arrive in this country illegally will not be able to stay. We know that effective returns agreements work as a deterrent. When in government, we cut the number of Albanian illegal migrants coming to the UK by small boat crossings by more than 90%, thanks to our returns agreement. In 2022, 12,658 Albanian illegal migrants arrived in the UK by small boat, but that fell to just 924 in 2023, following our landmark returns agreement with Albania.

We have therefore included in new clause 21 the objective for the Border Security Commander to ensure that a decision on a claim by a person who has arrived in the UK illegally is taken within six months of the person's arrival, and for the commander to make arrangements with a safe third country for the removal of people who enter the UK illegally. It is up to the Government to put in place an effective deterrent to people crossing the channel in small boats.

Mike Tapp: I find it quite astounding that there are any claims of success from the Opposition, given that we saw 299 people cross in 2018 and then an exponential rise of over 130,000 on the Conservatives' watch. The hon. Gentleman is talking about a deterrent, but four people went to Rwanda and over 80,000 people crossed when that scheme had been introduced.

Importantly, the whole system in the Home Office had completely ground to a halt. There is another deterrent that was overlooked by the Conservatives during their tenure, and that is having a process that actually functions. We now have record high deportations, and as that message cuts through to people who are looking to cross, it will start to serve as a deterrent.

Matt Vickers: I thought that we would get a bit further through the Bill before we got into records. In real terms, there has been a marked increase in the number of people coming here since this Government took office—small boat crossings are up by 28%. We now have 8,500 more people staying in hotels across the country—up by nearly 29%. We were closing hotels. The hon. Member talks about the number of people being deported, but they are voluntarily going back. In real terms, the number of people who have arrived on small boats being returned went down, and in the most recent figures, it has gone down again. We have not been sending back those people who have arrived in small boats since this Government took office—that is just not the case.

Mike Tapp: I thank the hon. Member for giving way again; I will not make a habit of it. It is important to realise that the processing of those who come into Western Jet Foil and then Manston takes time, but of course they will be deported, if they are not genuine refugees, once the system gets there.

It is also important to note something else. Being the Member of Parliament for Dover and Deal, I often look out across the sea, and I can tell when it is a good day to cross and when it is not. On those days when it is viable to cross, crossings have reduced. The Conservatives were relying only on the weather to bring down boat crossings.

Matt Vickers: I think, in the last week, we have found that the only thing that this Government are relying on is the weather, but I will carry on. I am sure we will come back to all these things in due course; it is good to be discussing them here instead of on a news channel somewhere.

As the Government are repealing the Illegal Migration Act 2023 and the Safety of Rwanda (Asylum and Immigration) Act 2024 with this Bill, we want to make sure that the Border Security Commander is empowered to ensure that all relevant agencies are working towards taking timely decisions on any claims by illegal immigrants, and removing those who enter the UK illegally.

Becky Gittins: I applaud the hon. Gentleman's comments about a timely turnaround in the processing of asylum claims—something that really concerns Government Members with regard to the IMA and the Rwanda Act. Could he tell me what proportion of asylum claims under the previous Government were processed within the six-month period stipulated in this new clause?

Matt Vickers: I could not, but I could tell the hon. Lady that the backlog is even bigger now than it was when this Government took office.

If the Government were serious about tackling illegal crossings and creating an effective deterrent, they would support new clause 21. We also want to make sure that the Border Security Commander is transparent with the public about how best to stop illegal and dangerous channel crossings, which is why this new clause includes a requirement for the commander to make an assessment of the most effective methods for deterring illegal entry into the UK, the most effective methods for reducing the number of sea crossings made by individuals without leave to enter the UK, and the most effective methods for arranging the removal, to the person's own country or a safe third country, of a person who enters the UK illegally. Again, if the Government were serious about protecting borders, they would support the new clause.

Clause 9 specifies that the Border Security Commander must

"comply with directions given by the Secretary of State about the exercise of the Commander's functions under this Chapter."

Can the Minister explain what sort of guidance the Secretary of State is likely to want to give the commander? Can she explain how the Secretary of State wishes to exercise the powers in the clause?

The SNP's amendment 1 would confirm that the commander must have full regard to the Human Rights Act and the Council of Europe convention on action

against trafficking in human beings. Given that the commander's role, as drafted by the Government, includes no real power or responsibility, I am not sure what that amendment would actually achieve.

Susan Murray (Mid Dunbartonshire) (LD): It is a pleasure to serve under your chairmanship, Dr Murrison. The Liberal Democrats would like to introduce new clause 7, because we want to strengthen cross-border co-operation and Britain's role in that process. We also believe that we need to reverse some of the last Government's roll-back of provisions to tackle gangs involved in modern slavery. The new clause would require the border commander to meet the executive director of Europol every three months, which would help to achieve those goals.

Chris Murray: Before I was elected and before Brexit, I was the justice and home affairs attaché at the British embassy in Paris. I helped to co-ordinate engagement between the Home Office, the French Government and Europol. I do not know how much the hon. Lady knows about how Europol functions, but it has a lot of operations and is a very busy organisation. It would frequently take us more than three months to arrange a meeting. Would the new clause not put civil servants at risk of breaching the law just because they could not set up a meeting fast enough?

Susan Murray: That is a really important point. If the new clause were accepted, civil servants would perhaps have to look at ways to schedule meetings in advance so that they were not done on an ad hoc basis.

Sarah Bool (South Northamptonshire) (Con): It is a pleasure to serve under your chairmanship, Dr Murrison. If the role of the Border Security Commander is ultimately to be successful, there needs to be confidence in its efficacy. The title of clause 3 is "Functions of the Commander", but headings in law are often not necessarily reflected in the interpretation, and the clause does not fully do what it sets out to achieve. As the hon. Member for Perth and Kinross-shire highlighted, it does not actually set out exactly what the functions are. It sets out that the commander has functions, and that they

"must have regard to the objectives of…maximising the effectiveness of the activities of partner authorities"—

which I assume would include Border Force—and

"maximising the coordination of those activities".

As Migrant Voice and Amnesty International said during evidence, it seems that the role of the border commander involves little more than administration, and I am concerned about what they will actually do. Even with the objective of issuing a "strategic priority document", all they have to do is set out the principle threats to border security and the strategic priorities.

I have a genuine question about the efficacy of the border commander. First, border security goes beyond just migration; it also relates to our biosecurity, as mentioned in the Environment, Food and Rural Affairs Committee the other day. Border Force highlighted that it deals with numerous issues, including breaches of rules on personal imports. That means that illegal meats are coming into the country, which is a real concern for our border security.

I am concerned about what the border commander will be able to do. Border Force actually needs help with monitoring imports and safely disposing of illegal meats, but it seems that the border commander will be able only to pull together Border Force groups and get them to talk about the problem or list potential threats. We know what the threats are; we just need action, as Border Force itself has called for. It needs more powers.

My concern is that the establishment of the border commander, although an interesting approach, will not actually solve the problems that need solving right now. Perhaps the Minister could address what the border commander will be able to do in that regard.

10.30 am

Dame Angela Eagle: I think Chief Miekelson will be on all our lists now. I spend the small amount of time I have in life to twiddle my thumbs looking for new detective dramas, and it seems I have overlooked one. I have been too into Scandi noir, when I should have been into Scottish noir. I will talk to the hon. Member for Perth and Kinross-shire after the sitting to see whether he can give me a little more detail, so that I can follow up for my own enjoyment.

This group contains various provisions relating to the Border Security Commander, including amendments 11 to 13 and new clause 21 from the official Opposition, and new clause 7, which the hon. Member for Mid Dunbartonshire spoke to. It also contains amendment 1, with which the hon. Member for Perth and Kinross-shire opened our proceedings on this group. In our earlier exchange, he and I reflected on how long in the tooth we both are. So experienced is he that he anticipated what my answer to his amendment would be, and his comments show that he has a coherent and experienced view of the way in which human rights law works. If we had to list in every single bit of primary legislation the treaties we had solemnly entered into, and the international agreements that we had, in many cases, helped to formulate and that we had then put into effect in our own law, we would have an even messier statute book than we have at the moment.

Amendment 1 seeks to ensure that the commander has full regard to the Human Rights Act 1998 and the Council of Europe convention on action against trafficking in human beings while carrying out all his functions. Both pieces of international agreement and law were freely entered into by predecessor Governments, and we take them extremely seriously as a law-abiding Government who believe in the rule of law. The Border Security Commander will be a public authority within the meaning of section 6 of the Human Rights Act, and must act compatibly with the Act. That is absolutely the case. It is not explicitly written into the Bill, as the hon. Gentleman's amendment would require, but that does not mean that all the requirements in the two agreements that amendment 1 mentions will not be adhered to.

Pete Wishart: Before I put my question to the Minister, I will just say to the Committee that "The Chief" is available on iPlayer, if they want to enjoy the eight episodes that will come their way.

Dame Angela Eagle: Not in the room though.

Pete Wishart: Perhaps not—I am sure you would have a few words to say about that, Dr Murrison.

[Pete Wishart]

I did anticipate the Minister's response, but I do not think there is anything wrong with ensuring that our commitments to international operations and to the whole force of human rights across the world—things we agree on—are in the Bill. We saw with the previous Government how easily international obligations and the international rule of law can be set aside and torn up. We are asking for these things to be in the Bill to give us security and a guarantee that the border commander will pay attention to them. If the commander is not compelled to do that by statute, there will be no obligation whatsoever.

Dame Angela Eagle: The hon. Gentleman can be assured that everything the commander does must be compatible with our obligations under the Human Rights Act and the Council of Europe convention on action against trafficking in human beings. Those things are implicit with every public office holder in the UK, in all the contexts in which they work. The fact that those things are implicit, and not explicitly in the Bill, does not undermine the commitment of any Government who want to act within the rule of law. One of the first things our current Prime Minister said when he walked through the door at Downing Street was that we would be a Government who respected the rule of law and the Human Rights Act.

Chris Murray: The most comparable piece of legislation on this topic in a devolved context is the Human Trafficking and Exploitation (Scotland) Act 2015. That Act does not require a clause that specifies the obligation to respect international law. Those things are implicit in legislation passed by the Scottish Government, even on this topic.

Dame Angela Eagle: My hon. Friend is exactly right. Under section 6 of the Human Rights Act, all office holders implicitly have to follow the rules of the European convention on human rights. One issue, if we decide to move away from the current approach and start to include an explicit provision in particular Bills—as the amendment in the name of the hon. Member for Perth and Kinross-shire would—is that it might look like the implicit duty to adhere to these agreements does not apply if it is not stated explicitly. That would actually lead to a lessening of protections, if judges looking at what Parliament was legislating for decided that we must take account of section 6 of the Human Rights Act only if we put that in a Bill. We would end up in a worse situation.

I ask the hon. Member to accept that the structure in the Bill is the one we have used so far. I understand why he is sceptical, after the behaviour of the last Government, but I hope he accepts, given the Prime Minister's pronouncements right from the beginning of this Government taking office, that we are not planning on undermining the Human Rights Act or its provisions.

Pete Wishart: I do not like having to correct the hon. Member for Edinburgh East and Musselburgh, who is usually very diligent on these matters, but the Human Trafficking and Exploitation (Scotland) Act 2015 is fully compliant with human rights legislation. That fact is included in the Act, as it is in practically every Act passed by the Scottish Parliament.

Dame Angela Eagle: I am not massively familiar with the Scottish statute book.

Chris Murray: On that point, the 2015 Act does refer to the Council of Europe protections and its definitions are taken from there. But there is not a clause that says that due regard has to be given—

Pete Wishart: It is completely and utterly compliant.

Chris Murray: But in an implicit way, just as this Bill is. There is nothing on the face of the Act, in the way the hon. Member is proposing for this Bill.

Dame Angela Eagle: I feel I ought to intervene and separate the combatants. I reassure the hon. Member for Perth and Kinross-shire—especially given the pronouncements from some in the previous Government—that this Government are absolutely committed to the provisions of the Human Rights Act and the convention on action against trafficking in human beings. I hope he accepts that and will withdraw his amendment.

Amendment 12 seeks to ensure that the strategic priority document produced by the Border Security Commander is supportive of the Home Office's UK border strategy. Border security is a fundamental part of the strategic approach to the wider border, and the strategic priorities for border security will help to drive the wider UK approach. They are part of the approach—they are not a threat or a counter to it. The strategic priority document will be consulted on at the board—which the Committee will discuss when we reach clause 6—which has representatives from across the border security system, to ensure alignment with wider strategic approaches to the border. The whole point of the Bill is to cohere and convene and to ensure that there is co-operation across complex systems; it is not to disintegrate systems. Therefore, it would be fairly astonishing if the border security strategy was somehow completely at odds with what the Border Security Commander and the wider system were planning.

Amendment 13 seeks to give the Border Security Commander the power to direct the specified law enforcement bodies and personnel in the delivery of his objectives and strategic priorities. The power to direct—what the hon. Member for Stockton West called "empowerment"—is not required. During last week's oral evidence, we heard from representatives of the National Crime Agency and the National Police Chiefs' Council that they welcome and value the collaboration to date with the Border Security Commander. The arrangements as provided for in the Bill will reflect and respect the operational requirements of the various board members. They are a balancing act between convening, collaborating and co-operating, and a way of ensuring that those who have some independence written into what they have to do in other areas feel not that they are being made "subject to" but that they are "collaborating with". The most effective commanding is exactly that: it is done with co-operation; it is not done with dictatorial powers or attempts to undermine the independence of other organisations.

Under clause 5, partner authorities already have a duty to co-operate with the commander, in so far as it is reasonably practicable for them to do so. Under clause 3,

partner authorities must have regard to the strategic priorities on which the board will be consulted and which will be endorsed by the Secretary of State, as set out in clause 4(b). Amendment 11 would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State to issue a strategic priority document.

My hon. Friend the Member for Edinburgh East and Musselburgh has already pointed out that an obsession with complete independence can actually fragment a system and make it harder for us to achieve outcomes by working together. He rightly mentioned that, where there is operational independence and we are trying to make a system work in co-operation, that can sometimes lead to cultures of secrecy and non-co-operation, rather than co-operation that focuses on objectives.

In the Bill, we wish to foster co-operation that focuses on very defined objectives and strategies. The Government believe that that is the best balance. Allowing the Border Security Commander to publish documents behind the back of the Home Secretary, for whatever reason he or she may think fit, is not exactly fostering a co-operative working environment or an environment that is likely to be successful. We believe that the way in which these things are expressed in the existing clauses is more likely to foster agreement.

As already discussed, the strategic priority document provided for in clause 3(2) will set out the principal threats to border security when the document is issued, as well as the strategic priorities to which partner authorities should have regard in exercising their functions in relation to any of the identified threats. The role of the Border Security Commander is to support the Government of the day, and it is therefore only right that Ministers and the Secretary of State endorse the strategic direction and collective response of this public authority in relation to border security.

The hon. Member for Stockton West seemed to want to give the Border Security Commander powers to do things and to remove the requirement for ministerial consent for whatever they wanted to do. That seems to set up the Border Security Commander in a more powerful position than Ministers, which seems an odd thing for a Member of Parliament and a shadow Minister to wish to do. We think that the right way of ensuring accountability for the way these things are done is to have ministerial involvement, rather than set up operational structures that are so independent of Ministers that people want to do things behind Ministers' backs.

10.45 am

New clause 7 would introduce a requirement for the Border Security Commander to meet the director of Europol or their delegate every three months. That requirement would be in primary legislation; it would stay there for many years to come, and it could not be changed. Even if Europol were to evolve into something completely different, what the hon. Member for Mid Dunbartonshire has suggested would mean that the Border Security Commander still had to meet what might be a defunct organisation. I have considerable sympathy with what she is trying to achieve, but I do not think that we need to specify in such a particular way in the Bill—in primary legislation—what the commander should do.

I can tell the Committee that the commander has been busy meeting all sorts of people across Europe and beyond about operational co-operation, including Europol, Frontex and some of our colleagues in European Union countries who have operational requirements to deal with cross-border organised immigration crime, and he will continue to do that as part of the strategy he develops. It would be onerous and possibly less effective for that to be specified in the Bill.

Susan Murray: The Minister makes good points about the practicalities. It is good to hear that she recognises that the Liberal Democrats are simply trying to ensure that we have international influence and cross-border activities.

Dame Angela Eagle: I can certainly assure the hon. Lady that I recognise the import of what she is trying to do with the new clause. Often, such proposals are hooks to hang a debate on, so that there can be a little more information about the Government's intent. I can assure her that having close operational and diplomatic liaison across all the different structures we have to work with to deal with cross-border immigration crime is absolutely at the centre of what the Border Security Commander will want to do. When we come to it, I hope she will not press her new clause to a vote.

Matt Vickers: The contrast is interesting. The Opposition want to see a Border Security Commander independently empowered to make meaningful changes to secure the border, rather than another civil servant muted by political oversight. There is a big contrast in perspective in terms of whether a Home Secretary should be signing off on anything anyone in this huge role—which will make a difference to our borders—will be able to say. Secondly, I would like to understand why the Government do not think it worth the Border Security Commander having the objective of reducing or even ending small boat crossings.

Dame Angela Eagle: It is quite revealing that the hon. Gentleman seems to think that the natural order of things is for Ministers to be at loggerheads with civil servants and the people who are operationally charged with delivering on objectives. That may say more about Opposition Members than about the way we are seeking to achieve operational effectiveness and objectives in what we are doing.

Finally, new clause 21 focuses on the Border Security Commander's functions in relation to tackling small boat crossings to the UK. This is an all-encompassing new clause, which goes far beyond the commander's functions as set out in the Bill. The new clause seems to want the commander to be all things to all people.

The immediate priority is organised immigration crime-enabled small boat crossings. The Border Security Commander will, and necessarily must, evolve over time to provide the systems leadership across all threats as they emerge. Such crossings did not really emerge until 2018, but they have become embedded and more of a threat over time. Had we been discussing something like this in 2017, small boat crossings would not have featured at all. It is therefore important that our legislation allows the Border Security Commander to change approach or focus as new threats emerge. Threats evolve and change over time. Our approach accounts for that by stipulating in legislation that the Border Security

[Dame Angela Eagle]

Commander has particular objectives that might be important now but less important in the future. The new clause seems to me to present an overly difficult and inflexible way of moving forward.

Katie Lam: Presumably, it would always remain an objective to bring an end to illegal migration, as far as is practical?

Dame Angela Eagle: Yes.

I was going to talk about what new clause 21 suggests we should do. For example, the subsection on asylum processing seems to say that the Border Security Commander should somehow take over the duty to ensure that those who arrive illegally are processed within six months—something that the Conservatives did not achieve at all during their time in Government. I am not certain why the Border Security Commander should be empowered to take over the entirety of the asylum system.

Next, the new clause states that the commander should also be in charge of immigration enforcement, and that they should do removals as well as asylum processing and defending the border. The authors of the new clause seem to think that the Border Security Commander should be not only independent, but virtually all-seeing, all-singing and all-dancing, and that they should do absolutely everything with which the entire immigration and asylum system is currently charged. That is overreach, to say the least.

The new clause also suggests that the commander should remove people to a safe third place within six months for processing. In all their years in office, the Conservatives never managed to achieve any of those things. To put them into a new clause for a Government that has been in office for seven months—a Government who were left with the most appalling mess, with an asylum system that had crashed and had massive backlogs, and with a structure in the Illegal Migration Act that made it illegal for us to process any new arrivals who claimed asylum after March 2023—and to complain that we have not sent small boat arrivals home fast enough takes the biscuit.

Sarah Bool: I think the intention behind the new clauses, as has been identified, is to give the Border Security Commander more teeth to help him to do what he is supposed to do. Although I appreciate that behind the drafting of the Bill is a recognition that the commander might need to be reactive in future, the new clauses aim to reduce the number of illegal migrants; that is what we are all trying to tackle. When the Border Security Commander can only do things such as

"maximising the effectiveness of the activities of partner authorities",

"maximising the coordination" and issuing reports, it does not give us confidence that the commander has the necessary power or that we will see the results that the Government are trying to achieve.

Dame Angela Eagle: It is fairly astonishing to have a new clause that puts the Border Security Commander in charge of the entire asylum and deportation systems and asks him, in legislation, to achieve processing times that the Conservative party never achieved when they were in Government. It falls into the trap of empowering the Border Security Commander to such an extent that he seems to have to take over most of the Home Office. That is not really what we intend to do with this Bill. New clause 21 would result in a fairly astonishing increase in not only the power, but the reach of the Border Security Commander. That would be massively disruptive and would probably lead to an outcome similar to the collapse of the asylum system, of which we have had to clean up the mess.

Mike Tapp: I think the new clause is more of a political point than a constructive addition to the Bill. I am new to Parliament, but I think Bill Committees can be really useful. This new clause is far from useful, however, and there is nothing constructive in it. It is unrealistic and feels like political point-scoring.

Dame Angela Eagle: Not for the first time today, I agree with my hon. Friend. When the time comes, we will be voting against this new clause.

Katie Lam: The Minister perhaps slightly mischaracterises new clause 21. It states that the Border Security Commander should "have regard to", not manage, the wider aims of the Home Office in securing the border. Why would the Minister not want the Border Security Commander to have regard to that?

Dame Angela Eagle: New clause 21(1)(c) talks about:

"making arrangements with a safe third country for the removal of a person who enters the United Kingdom without leave, or with leave that was obtained by deception"

and new clause 21(1)(b) mentions:

"ensuring that a decision is taken on a claim by a person under subsection (1)(a) within six months of the person's arrival in the United Kingdom".

If that is not asking the Border Security Commander to take over the workings of the asylum system, I am not sure I understand what the new clause is trying to do.

Katie Lam: The new clause clearly does not do that. The two points that the Minister just mentioned are part of a broader sentence that states that the Border Security Commander

"must have regard to the objectives"

in subsection (1). The new clause does not state that the Border Security Commander should do those things themselves.

Dame Angela Eagle: But how on earth could asking the Border Security Commander to have regard to those things lead him or her to deal with border security? The new clause would take away the focus in the current Home Office arrangements on immigration enforcement and the asylum system. The new clause says that the Border Security Commander must have regard to all the processes in areas of the Department they have nothing to do with. It would upend working relationships. It would make it impossible and incoherent to deliver any kind of—

Tom Hayes: This is my third Bill Committee, and so far I am really enjoying it. In all three Bill Committees, I have sensed something interesting; my understanding of what the Conservative party has been does not quite coincide with what it is today. It feels peculiar to hear Conservative Members asking for this role to have so many teeth and being so prescriptive about writing that into primary legislation. As I understand it, Conservatives typically used to try to minimise the amount of detail in primary legislation, in order to give the arms of the state the freedom to do their duties and enact their responsibilities properly.

That is particularly important when we are living through a time of significant volatility. The complications surrounding our immigration and asylum system are manifold, so we need to give this role significant flexibility in order that the Border Security Commander can co-ordinate command. I am struck by what seems to be almost an existential challenge at the heart of modern Conservative thinking.

11 am

Dame Angela Eagle: I think, Dr Murrison, you would probably not be very pleased with me if I started to talk about existential challenges at the heart of Conservative thinking, much as I would like to do so. I hope that I have given some reasons why new clause 21 should not stand part of the Bill.

Pete Wishart: I thank the Minister for her full response to some of my concerns about compliance with international obligations. Something that she did not respond to, and that I am really keen to secure her views on, is the FDA *v.* the Cabinet Office High Court case during the Rwanda litigation, which the Government obviously won. It seemed to suggest that any civil servant would not be bound by international obligations. Where does that leave the Border Security Commander?

Dame Angela Eagle: The Prime Minister made it clear right at the beginning of his time in office that the Government will be bound by the international obligations that we have signed up to. I hope that gives the hon. Gentleman—*[Interruption.]* Well, he is a sceptical man, as I would expect, but I have said what I have said about that. Is he suggesting that we should change the law as a result of the High Court?

Pete Wishart: My concern is that the judgment in that court case significantly changed our approach to international obligations and the rule of law. All I am interested in knowing is whether the Minister has any concerns, given such a significant and dramatic shift in the way successive Governments have approached these issues. Will that have any bearing on the operation of the Border Security Command?

Dame Angela Eagle: As I said earlier, the Border Security Commander and the Border Security Command will work within the confines of international obligations and human rights law.

Mike Tapp: I apologise for my lack of timely bobbing earlier, Dr Murrison. I draw attention to the Home Secretary's statement at the very top of the Bill:

"In my view the provisions of the Border Security, Asylum and Immigration Bill are compatible with the Convention rights."

That adds to what the Minister has said: that those in public office have an obligation to abide by the law. If they were not to do so, there would of course be legal challenge.

Pete Wishart: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: Does the shadow Minister wish to press any of his amendments to a vote?

Matt Vickers: If we are to have a Border Security Commander, we want an effective one who can publish a strategy without being subject to a political veto, who has priorities aligned to the UK border strategy, and whom Home Secretaries can direct agencies to follow. We wish to press the amendments to a Division.

Amendment proposed: 12, in clause 3, page 2, line 36, at end insert—

"(2A) The strategic priority document issued under subsection (2) must support the Home Office's UK Border Strategy."—*(Matt Vickers.)*

This amendment would require that the Border Security Commander's strategic priority document supports the UK Border Strategy.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 1]

AYES

Bool, Sarah	Vickers, Matt
Lam, Katie	

NOES

Botterill, Jade	Murray, Chris
Eagle, Dame Angela	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Mullane, Margaret	Wishart, Pete

Question accordingly negatived.

Amendment proposed: 13, in clause 3, page 2, line 36, at end insert—

"(2A) The Home Secretary may give direction to Border Force, Immigration Enforcement, Police and Crime Commissioners (PCCs) and the National Crime Agency to support the Border Security Commander in the delivery of the Border Security Commander's objectives and strategic priorities.

(2B) The Home Secretary's powers under subsection (2A) must not be used to interfere with the democratic mandate of the PCC within a force area, nor seek to interfere with the office of constable or operational independence of the chief constable or the operational independence of the National Crime Agency, unless the Home Secretary is satisfied on the advice of HMICFRS that not to do so would result in a police force of the National Crime Agency failing or national security being compromised."—*(Matt Vickers.)*

This amendment would enable the Home Secretary to direct other agencies to support the Border Security Commander's objectives and strategic priorities.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 2]

AYES

Bool, Sarah	Vickers, Matt
Lam, Katie	

NOES

Botterill, Jade	Murray, Chris
Eagle, Dame Angela	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Mullane, Margaret	Wishart, Pete

Question accordingly negatived.

Amendment proposed: 11, in clause 3, page 2, line 41, leave out subsection (b).—*(Matt Vickers.)*

This amendment would remove the requirement for the Border Security Commander to obtain the consent of the Secretary of State before issuing the strategic priority document.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 3]

AYES

Bool, Sarah	Vickers, Matt
Lam, Katie	

NOES

Botterill, Jade	Murray, Chris
Eagle, Dame Angela	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Mullane, Margaret	Wishart, Pete

Question accordingly negatived.

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

The Chair: With this it will be convenient to consider clause 9 stand part.

Dame Angela Eagle: Clauses 3 and 9, taken together, outline the functions of the Border Security Commander and the directions given to the commander by the Secretary of State. Clause 3 ensures that the commander has the ability to bring partners together to provide an authoritative source of information on priority and emerging threats to border security. Through the strategic priority-setting process, the commander, working collaboratively with partners and with consent from the Secretary of State, will have the authority to issue strategic priorities on border security, to which partners must have regard. That creates a new mechanism to ensure that there is a whole of Government understanding and a collective response to border security threats.

The provisions of clause 3 recognise the varied responsibilities of partners, and deliberately ensure that the duty does not prevent partner authorities from exercising their existing constituted mandates or from setting their own wider priorities. The UK intelligence community are exempted from definition as partner authorities, in order to ensure that they can carry out their functions without constitutional conflict. However, UKIC will continue to work closely with the Border Security Command on border security matters, and arrangements are being developed, and will be agreed by the Home Secretary and Foreign Secretary, to ensure that that takes place. Such arrangements are required by clause 5.

Clause 9 builds on that by ensuring that the Secretary of State can hold the Border Security Commander to account for the delivery of improved border security outcomes. As an elected official, the Secretary of State is accountable to the Cabinet and to Parliament, and can assure that the actions of the commander are being carried out in the interests of the British public.

Question put and agreed to.

Clause 3 accordingly ordered to stand part of the Bill.

Clause 4

DUTY TO PREPARE ANNUAL REPORTS

Pete Wishart: I beg to move amendment 2, in clause 4, page 3, line 37, at end insert—

"(c) set out how the Commander has fulfilled the Commander's duties under section 3(1A) of this Act to have full regard to the Human Rights Act 1998 and the Council of Europe Convention on Action against Trafficking in Human Beings."

This amendment is linked to and consequential upon Amendment 1, and would require the Commander to include in the annual report information about how they have paid due regard to the Human Rights Act and the European Convention on Action against Trafficking.

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

Amendment 14, in clause 4, page 3, line 37, at end insert—

"(c) state the number of persons who have, since the later of the passing of this Act or the last annual report, been—

(i) charged with offences under sections 13, 14, 18, and 43 of this Act; or

(ii) convicted of offences under sections 13, 14, 18, and 43 of this Act;

(iii) identified as entering the United Kingdom via sea crossing without leave to remain;

(iv) detained pending deportation or a decision on deportation;

(v) deported to a country of which the person is a national or citizen; or

(vi) deported to a country or territory to which there is reason to believe that the person will be admitted."

This amendment would place a duty on the Border Security Commander to include, in their annual report, figures on immigration crime, sea crossings, detentions and deportations.

Clause stand part.

Pete Wishart: I will not detain the Committee for long. Amendment 2 covers the same sort of terrain as my amendment 1, which sought to ensure that the Border Security Commander takes cognisance of international obligations, most notably in relation to human rights and the provisions of the European convention on action against trafficking. Amendment 2 would require the commander, when making the annual

report, to make reference to his compliance, in the work that he has done, with the Human Rights Act and with ECAT. That is all I am asking. There is no good reason why that cannot be included as part of the commander's annual accounting to the House of Commons. That would give us an opportunity to understand how part of his work has been in ensuring that those obligations have been met, and I think it would be a worthy inclusion in his annual report. I commend the amendment to the Committee.

Matt Vickers: Clause 4 would give the Border Security Commander a duty to prepare annual reports, which must state how the commander has carried out their functions in that financial year and set out the commander's view on the performance of the border security system that year, with particular reference to the commander's strategic priorities. That all seems very vague, and a case of the Border Security Commander being allowed to mark their own homework.

Can the Minister explain what success would look like for the Border Security Commander? What are the measurable key performance indicators that the Home Secretary will consider? That is important because the Secretary of State, as set out in clause 2, can dismiss the commander. What would constitute poor enough performance for that to happen, and what would be a success?

To try to inject some objectivity and accountability into the process of annual reports, we have tabled amendment 14. We would like the Border Security Commander to report on the number of persons who have, since the later of the passing of the Bill or the last annual report, been charged or convicted of offences under clause 13, "Supplying articles for use in immigration crime"; clause 14, "Handling articles for use in immigration crime"; clause 18, "Endangering another during sea crossing to United Kingdom"; or clause 43, "Articles for use in serious crime". We want to know how effective the new offences will be in practice for achieving the Government's aim of stopping illegal immigration.

The Government's own impact assessment admits that very few people will go to prison as a result of the measures in the Bill. On the proposals to strengthen and improve the function of serious crime prevention orders, it says:

"It is estimated that between zero and three prison places, with a central estimate of one prison place will be required per year once the steady state is reached."

On introducing an interim serious crime prevention order, it says:

"It is estimated that between 0 and 1.54 prison places, with a central estimate of 0.2 prison place will be required per year once the steady state is reached."

On serious and organised crime articles, it says:

"It is estimated that between four and six prison places, with a central estimate of five prison places will be required per year once the steady state is reached."

On new offences to criminalise the making, adapting, importing, supplying, offering to supply and possession of articles for use in serious crime, it says:

"It is estimated that between four and six prison places, with a central estimate of five prison places will be required per year once the steady state is reached."

It is important to report on the new offences relating to immigration crime, which the Government think will not send a meaningful number of people to prison, and also on the new offence of endangering lives at sea, for which the impact assessment includes no estimate. Can the Minister confirm how many people the Government expect each year to be arrested, convicted and imprisoned under the new offence of endangering lives at sea?

Tom Hayes: I am wondering about the intent behind that question. Is the hon. Member concerned about the availability of prison spaces?

Matt Vickers: We want to see how effective the offences will be. The Government have set that out in part, but not for the new offence of endangering lives at sea, which has great consequence.

Amendment 14 would also require the Border Security Commander to report on the number of people identified as entering the United Kingdom via sea crossing without leave to remain; how many of them are detained pending deportation or a decision on deportation; and how many are deported to a country of which the person is a national or citizen, or to a country or territory to which there is reason to believe that the person will be admitted. We believe it is important to have transparency about the role of the Border Security Commander in facilitating removals. If they are charged with minimising threats to the border, removing those who enter this country illegally with no reason to remain is a big part of successfully achieving that objective.

Mike Tapp: It is important to note that measures of success can change. Legislating for that might mean that, in a decade, we are wasting the time of the Border Security Command and its commander. My understanding of statistics and their collection is that that is for the Home Office and the Office for National Statistics. Of course, as those who are prosecuted go through the courts, we will all be able to see that.

There may also be a slight misunderstanding about what a prevention order is and what it aims to do. It is a disruptive measure that can be used before charge to stop the vile smuggling criminals from operating. If and when they go to prison, that means that they have breached that order. The fact that the estimate is low means that there is confidence in the prevention orders succeeding.

Sarah Bool: To follow up on the points of the shadow Minister, my hon. Friend the Member for Stockton West, the duty to prepare annual reports feels like a self-appraisal. Essentially, all the commander has to do in those annual reports is state how they have carried out their role and set out their view on the performance. We need some more evidence. In appraisals in any work context, it is always necessary to have the opposite feedback, but I feel that is missing here. It is not clear that there will be an opportunity to challenge the information that comes in front of the House. We really need the detail.

I worry that the fact that the Government are not prepared to require the Border Security Commander to include these details of their work in their annual report is a sign that they do not have confidence in what the commander can do, so our amendment is very important. The hon. Member for Dover and Deal said that he is

[Sarah Bool]

worried that it will be burdensome, but I think that the information it would require is the minimum that should be provided to us. That information should be happily supplied to the House in the interest of transparency, and I am sure the Minister is keen to do that. That needs to be considered, and perhaps she will address that.

11.15 am

Dame Angela Eagle: Amendment 2, tabled by the hon. Member for Perth and Kinross-shire, would require the Border Security Commander to clearly outline how they have paid due regard to the Human Rights Act and the European convention on action against trafficking by including that information in the annual report that is laid before Parliament. As discussed when we debated amendment 1, the Border Security Commander will be a public authority within the meaning of section 6 of the Human Rights Act, and must act in compatibility with the human rights legislation. The commander will be aware of the risks in relation to trafficking and modern slavery through their work, and will continue to comply with the obligations, as part of the Government, under the European convention on action against trafficking in human beings. Therefore, it is unnecessary to detail explicitly that that should be in the report. That does not mean that it will not be, as the hon. Member for Perth and Kinross-shire recognised when he withdrew amendment 1. He has made his point powerfully.

Amendment 14 would create a requirement for the Border Security Commander to include in the annual report a range of statistics relating to the new offences created by the Bill, and wider relevant statistics in relation to irregular entrants who have arrived via a sea crossing, and to deportations. The amendment proposes that the annual report must state how the commander has carried out the functions of their office in the financial year, and set out the commander's views on the performance of the border security system, with particular reference to the strategic priorities that have been set.

The clause envisages that the report will be laid before Parliament and published. That will provide public and parliamentary accountability for the work of the Border Security Commander across all threats, although the strategic priorities may change over time as the threats against which the commander will need to report evolve.

Amendment 14 in the name of the hon. Member for Stockton West is quite prescriptive about what should be in the report, and includes a range of statistics. In the UK, we have quarterly publication of immigration statistics, which are organised by the Home Office and under the code of practice of the independent UK Statistics Authority. Statistics are regularly made available about what is going on in this area. The hon. Gentleman wants such statistics to be published, under statute, in the annual report that the commander puts before Parliament but, with all due respect, I think it is important that the commander is able to write his report himself without primary legislation directing him what to put in it, especially given that those statistics are regularly made available and are well looked at and reported upon. What the hon. Gentleman is suggesting is cumbersome and would not assist in ensuring that we have parliamentary and public accountability for the commander's performance.

The hon. Gentleman also quoted from the assessments of the number of prison places that would be created by the new crimes that we will talk about when we debate subsequent clauses. I am not sure what he does not understand about serious crime prevention orders or interim serious crime prevention orders. The idea of some of the new powers—the counter terror-style powers, which we will talk about in due course—is that they will prevent crossings and crimes from happening in the first place. They will allow the police and the National Crime Agency to intervene much earlier and to stop crime happening. In those circumstances, there may be a lesser sentence rather than a prison sentence, but lives would be saved and exploitation would be prevented. That is the nature of counter terror-style powers.

I hope that the hon. Gentleman will accept that the annual report will allow public and parliamentary accountability for the work of Border Security Command and that he will not press his amendment, as it would create too inflexible an annual report for the commander, with too much outside interference through primary legislation.

Pete Wishart: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment proposed: 14, in page 3, line 37, at end insert—

"(c) state the number of persons who have, since the later of the passing of this Act or the last annual report, been—

(i) charged with offences under sections 13, 14, 18, and 43 of this Act; or

(ii) convicted of offences under sections 13, 14, 18, and 43 of this Act;

(iii) identified as entering the United Kingdom via sea crossing without leave to remain;

(iv) detained pending deportation or a decision on deportation;

(v) deported to a country of which the person is a national or citizen; or

(vi) deported to a country or territory to which there is reason to believe that the person will be admitted.".—*(Matt Vickers.)*

This amendment would place a duty on the Border Security Commander to include, in their annual report, figures on immigration crime, sea crossings, detentions and deportations.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 12.

Division No. 4]

AYES

Bool, Sarah	Vickers, Matt
Lam, Katie	

NOES

Botterill, Jade	Murray, Chris
Eagle, Dame Angela	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Mullane, Margaret	Wishart, Pete

Question accordingly negatived.

Clause 4 ordered to stand part of the Bill.

Clause 5

DUTIES OF COOPERATION ETC

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

Dame Angela Eagle: Clause 5 places a duty on partner authorities to co-operate with the commander in the carrying out of their functions. The commander is tasked with maximising the effectiveness of our collective response to border security threats, which requires a whole of Government response and will be enabled by the clause. It is recognised that partner authorities have wide-ranging functions that extend well beyond tackling border security threats. The duty set out in the clause extends only so far as is appropriate and compatible with partner authorities' other functions. That ensures that partners across the system are working in lockstep to enhance border security, while continuing to enable the vital work undertaken by partners beyond border security matters.

Matt Vickers: Clause 5 provides that a partner authority has duties, so far as is "appropriate and reasonably practicable," to co-operate with the commander in carrying out the commander's functions. It would be helpful if the Minister explained what the Government mean by

"so far as appropriate and reasonably practicable"

and under what circumstances it might be justified for a partner authority not to co-operate. Does it mean, as per subsection (2), that the partner authority would co-operate only so far as the co-operation was compatible with the exercise of its other functions, or are there other circumstances where partner authorities might not have to co-operate?

Again, the clause exposes how powerless the Border Security Commander is. The commander cannot actually command any of these partner authorities to do anything at all. Subsection (3) requires those who are co-operating with the commander in the exercise of their functions to put in place arrangements governing co-operation between the commander and that person. Does the Minister have—

The Chair: Order.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Fourth Sitting

Tuesday 4 March 2025

(Afternoon)

CONTENTS

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

not later than

Saturday 8 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, Dr Andrew Murrison, † Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 4 March 2025

(Afternoon)

[Graham Stuart *in the Chair*]

Border Security, Asylum and Immigration Bill

Clause 5

Duties of cooperation etc

Question (this day) again proposed, That the clause stand part of the Bill.

2 pm

The Chair: Would everyone please ensure that all electronic devices are turned off or switched to silent? We now continue line-by-line consideration of the Bill. The grouping and selection list for today's sitting is available in the room, as well as on the parliamentary website. I remind Members about the rules on declarations of interests, as set out in the code of conduct.

Matt Vickers (Stockton West) (Con): It is a pleasure to serve under your chairmanship on your first outing, Mr Stuart. Clause 5(3) requires those who are co-operating with the commander in the exercise of their functions to put in place arrangements governing co-operation between the commander and that person. Does the Minister have a view about what those agreements will look like and what sort of obligations will fall on both parties?

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure to serve under your chairmanship, Mr Stuart. It will be the first occasion of many, I am sure. I hope you enjoy chairing Bill Committees as much as I enjoyed doing so in the previous Parliament.

Clause 5 places a duty on partner authorities to co-operate with the commander in the carrying out of their functions. The commander is tasked with maximising the effectiveness of our collective response to border security threats. That requires a whole-of-Government response, which will be enabled by this clause. It is recognised that partner authorities have wide-ranging functions that extend well beyond tackling border security threats. The duty set out in the clause extends only so far as it is appropriate and compatible with partner authorities' other functions. That ensures that partner authorities across the system work in lockstep to enhance border security while continuing to enable the vital work undertaken by partners in other contexts, beyond border security matters.

Question put and agreed to.

Clause 5 accordingly ordered to stand part of the Bill.

Clause 6

The Board

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

Dame Angela Eagle: Clause 6 places a duty on the Border Security Commander to establish and maintain a board to assist with the exercise of their functions. That unique forum enables senior representatives from across the border security system to convene to shape our collective response to organised immigration crime and other border security threats. The commander will consult the board when developing strategic priorities for border security, which makes the board a crucial forum in shaping the whole-of-Government response to these threats.

Matt Vickers: Clause 6 states:

"The Commander must establish and maintain a board to assist the Commander in the exercise of the Commander's functions."

It is all quite open-ended: the chair will be the commander, and the board will be made up of one or more representatives from each relevant partner authority. Will the Minister explain on what basis the commander might decide to have representatives from partner authorities? Why do all partner authorities not need to be represented?

Subsection (6) states:

"The Commander must hold meetings of the Board at such intervals as the Commander thinks appropriate."

Does the Minister have any views about how regular the meetings should be? What sort of matters does she envisage the board will deal with?

Dame Angela Eagle: The Bill is a framework within which the Border Security Commander operates, but it is not prescriptive because the people who drafted the Bill could not see what the priorities will be in the future. It is a framework that enables the Border Security Commander to respond to what is going on at the time, without limiting him.

There has been a common theme throughout the speeches from the Opposition. They seem to feel that somehow the commander does not have sufficient empowerment to command the border security system, that he is not independent enough, and that he somehow cannot get things done, but the functions outlined in these clauses are not the sole capabilities of the commander's role as empowered by the Home Secretary and the Prime Minister.

The Border Security Command is not an operational entity, but a strategic leader for border security. Representatives on the board would be Departments such as the Foreign, Commonwealth and Development Office, His Majesty's Revenue and Customs, the Department for Transport, the Department for Environment, Food and Rural Affairs and the Cabinet Office, as well as operational partners such as the National Crime Agency, the UK intelligence community and security services, Border Force, Immigration Enforcement and policing. Those kinds of people will be convened for a strategic purpose. It makes sense, if we think about it, that the commander can bring these

people together as and when he or she sees a need for them to meet, depending on what is on the agenda and what is going on.

The commander is already using the role and its associated capabilities to deploy key functions to lead on border security across Government, including deploying additional resources across partners, such as the additional £150 million for border security that has been announced by the Government, and developing border security legislation to be used by operational partners, such as the powers in this Bill. In last week's evidence sessions, we heard from operational partners such as the police, the NCA and the Crown Prosecution Service on how useful they felt the powers in the Bill would be in their everyday operational capacity. The operational commander can also lead on international engagement diplomatically, and has accompanied both the Prime Minister and the Home Secretary on journeys to Italy, Germany and Iraq to ensure that we have meetings at the highest levels with people in other jurisdictions, to try to get more co-operation going to deal with the cross-border issues of border security.

The Bill provides a new significant wide-ranging power to lead the border security system strategically, which is being done for the first time. All partner authorities, defined as those public bodies with functions in relation to border security, must, as a legal duty, have regard to the strategic direction set by the commander. However, this works best if there is not a battle between different bits of the Government—if there is co-operation and co-ordination—and that is what these structures are designed to try to achieve. The Bill will, for the first time, provide a clear and long-term vision for border security, bringing together and providing leadership to all parts of the system that work to maintain the integrity of our border and immigration systems both domestically and internationally.

I hope that that has provided a little more explanation for the Opposition on the thinking and approach behind some of the powers set out in the clauses we are considering, and most specifically in clause 6.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

Delegation by the Commander

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

Dame Angela Eagle: Clause 7 ensures that the functions of the Border Security Commander can be delegated to an authorised civil servant when required. Flexibility in the exercise of these functions will support the most efficient and effective delivery of the Government's actions to tackle border security threats.

Matt Vickers: Clause 7 makes provision about the delegation of the commander's functions. Subsection (1) provides that

"The functions conferred on the Commander by this Chapter may be exercised by any civil servant authorised by the Commander for that purpose."

This is further evidence, were any needed, that the post of commander might not be a serious one. We have already seen that the Bill does not specify any minimum qualifications or experience for the commander, and we have seen why: they are not really in charge of anything.

There are serious questions to answer on the delegation of functions. What sort of functions does the Minister envisage the commander potentially delegating under this clause? Can any specific functions be named? The Bill does not specify any level of seniority for those the commander might delegate functions to. Is there any grade within the Home Office that the Minister thinks it would not be appropriate for the commander to delegate to? What oversight will there be of any delegation process?

Dame Angela Eagle: I set out in some detail in my reply on the previous clause some of the things that the commander is involved with, including some of the meetings he is involved in convening and the purpose of those strategic meetings. During the evidence we heard last week from operational partners, both the NCA and the police chiefs set out some of the benefits they felt there would be.

Margaret Mullane (Dagenham and Rainham) (Lab): Does the Minister agree that we seem to be having repetition in our discussions about the commander and his abilities within his role? The role is respected, and that came up in the evidence we heard. Does she feel that there is repetition of this point, with the Opposition picking up on it at every moment?

Dame Angela Eagle: The Opposition have asked which bits of the commander's functions may be delegated and to what level. In theory, it can be any of them. We are trying to ensure that there are no issues in primary legislation that would mean something is prevented from being delegated that would have been effective.

I do not think that the hon. Member for Stockton West would expect me to go into great detail about what might happen with delegation in the future, but I can give an example. If there was to be a high-level visit to Iraq to conclude a memorandum of understanding on returns and activity against organised immigration crime, and the commander was detained elsewhere, it would be possible to delegate that function to somebody who would then go in his place.

We are trying to get to the stage in legislation where we create the commander and give flexibility as to how the job can be put into effect in scenarios that may crop up, without being too prescriptive. I hope that the hon. Member for Stockton West will accept that example of the sort of thing that may crop up.

Chris Murray (Edinburgh East and Musselburgh) (Lab): It is quite interesting to hear the points that the Minister is making, considering the conversation we had this morning about the commander being functionally a civil servant. Although I was never officially a civil servant in the proper sense, from my experience it is really important that senior leaders within the civil service are able to avail themselves of delegation capacities as needed.

[Chris Murray]

It can be done for many reasons. It could be a bandwidth issue, where someone has multiple priorities and needs to delegate to someone else because they are not able to be in two places at once—and looking at the responsibilities of the commander as set out in the legislation, there are a lot. It could also be a resourcing issue or because of a conflict of interest. That brings me to the point I was making about this being a civil service role; there need to be proper conflict of interest considerations. That is what we are taking account of here.

Dame Angela Eagle: My hon. Friend is right that circumstances often crop up that require this kind of provision. All clause 7 does is allow it, so I commend the clause to the Committee.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8

Designation of an Interim Border Security Commander

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

Dame Angela Eagle: Clause 8 ensures that the functions of the Border Security Commander can continue to be exercised in the event that the post of commander is vacant for a period, or if the commander is incapacitated or temporarily unavailable. This ensures that the work to enhance our border security and undermine the people smuggling gangs threatening our borders continues in the event that the post either falls vacant or is effectively vacant for a period.

2.15 pm

Matt Vickers: Clause 8 allows for an interim Border Security Commander to be designated. I would be grateful if the Minister could confirm that this is essentially a stopgap either because a Border Security Commander is going to step down without a replacement yet secured, or for reasons of temporary incapacity to carry out their functions.

Subsection (2) specifies that the interim Border Security Commander can be designated

"for such period as the Secretary of State thinks appropriate."

I would like the Minister to explain whether there is a limit to what could be regarded as appropriate. This is, on the face of it, a temporary measure, so what counts as temporary for these purposes? What are the safeguards against an interim appointment carrying on indefinitely?

Subsection (3) says that the temporary designation can last no

"longer than the period for which no Commander is designated or (as the case may be) the Commander is incapacitated or unavailable",

but no time limit is set out in the Bill. Are there any minimum qualifications the Minister would expect an interim commander to have?

Dame Angela Eagle: Clause 8 is clearly there in the event of the commander being incapacitated or ill and unable to do the job for a while. It is not unusual that people have life experiences that mean they have to take time off work. In that kind of instance, an interim commander could be appointed, pending the return of the role holder, who may be receiving medical treatment or may be incapacitated in some way. There may also be a gap between the resignation or retirement of a commander and reappointment, although one would hope that planning ahead would mean that that would be minimised. The clause addresses the practical issue of having an interim in case there were an issue with appointment.

The interim commander would, obviously, be expected to have the skills to do the job to the full extent. No time limit has been put into primary legislation because if there were a hard timeline it would make it harder in practical terms to get a replacement. It is very much a horses for courses thing, allowing there to be an interim in the case of incapacity, retirement or replacement while the replacement is advertised for and appointed in the usual manner.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9 ordered to stand part of the Bill.

Clause 10

Exclusion of application to the armed forces

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

The Chair: With this it will be convenient to consider clauses 11 and 12 stand part.

Dame Angela Eagle: Clause 10 states that the duties in this chapter of the Bill do not apply to the armed forces, clause 11 makes amendments to the Data Protection Act 2018, and clause 12 provides definitions of the terms used. The work of the armed forces and the Ministry of Defence makes a significant contribution to the security of the United Kingdom. The Border Security Commander will work across Government, including with the Ministry of Defence, to enhance our border security. Clause 10 recognises the unique work of the armed forces. While the Border Security Commander will work closely with the armed forces, including through the military aid to the civil authorities process, it is correct that the important duty of our armed forces remains independent from the functions outlined in this chapter. That is achieved by clause 10.

Clause 11 amends the Data Protection Act 2018 to ensure that the Border Security Commander may process data for law enforcement purposes. That information is vital to build a shared understanding of the nature of border security threats and inform the priority setting process. Clause 12 provides definitions for the terms used in chapter 1 of the Bill for the reader's understanding and to ensure clarity on definitions during the implementation and operation of the legislation.

Matt Vickers: Clause 10 makes it clear that this chapter does not apply to the naval, military or air forces of the Crown. Clause 11 is an amendment to the Data Protection

Act 2018 to allow the Border Security Commander to be added to the list of competent authorities in relation to the processing of personal data carried out for a law enforcement purpose. Given how toothless the Border Security Commander appears to be, will the Minister explain why this measure needs to be added to schedule 7 of the Data Protection Act, as well as what law enforcement purposes the commander will have and for what purpose they will be processing personal data?

Dame Angela Eagle: The hon. Member asked why the Border Security Commander should be processing data collected from electronic devices. He will know that later in the Bill, there are some new powers that involve collecting, in an intelligence-led way, data from suspected organised immigration criminals. The point is to ensure that data is collected in a lawful manner, and that is why clause 11 allows the Border Security Commander to process data for law enforcement purposes. Some of that is about the counter terrorism-style powers, which we will discuss in relation to later clauses—I do not want to have that debate here—but it is really an enabling power to put beyond doubt the legality of the collection of such material.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clauses 11 and 12 ordered to stand part of the Bill.

Clause 13

Supplying articles for use in immigration crime

Pete Wishart (Perth and Kinross-shire) (SNP): I beg to move amendment 3, in clause 13, page 7, line 12, at end insert—

'(1A) For the purposes of subsection (1), P cannot commit an offence if P is an asylum seeker.'

This amendment would specify that the offence created by clause 13 ("Supplying articles for use in immigration crime") cannot apply to asylum seekers.

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

Clause stand part.

Amendment 4, in clause 14, page 8, line 11, at end insert—

'(2A) For the purposes of subsection (1), P cannot commit an offence if P is an asylum seeker.'

This amendment would specify that the offence created by clause 14 ("Handling articles for use in immigration crime") cannot apply to asylum seekers.

Clauses 14 and 15 stand part.

Pete Wishart: It is an absolute pleasure to serve under your chairing this afternoon, Mr Stuart. I welcome you to the Committee.

Clauses 13 to 18 are where we start to get into the serious business of the Bill, and where some of its most concerning and controversial aspects are revealed. Nowhere is that more certain than in clauses 13 and 14.

The Government tell us that their whole intention and focus is exclusively on smashing the gangs, disrupting their business and bringing to justice as many of the people associated with and involved in this vile trade as possible. In everything we do in the Committee and in the House, the community must ensure that the Government are supported in that ambition and intention. That is one thing that unites the whole House, and we wish the Government every success in disrupting the gangs, smashing their business operations and bringing them to justice.

As we look at clauses 13 and 14, the first thing we have to do is assess and judge whether they assist in that process. I think we have to come to the conclusion that they do not, and they could make the situation a lot worse. They will certainly make the conditions of those who seek to come to our shores—some of the most wretched people in the world—much harder and more intolerable.

Jo White (Bassetlaw) (Lab): Does the hon. Member hold the view that an asylum seeker cannot be above the law when it comes to participating in smuggling gangs?

Pete Wishart: I do not think anyone would assert, contend or propose that. Everybody is subject to the laws. Clauses 13 and 14 are designed to create new ways to criminalise people. I have listened carefully to the Government's rhetoric, and I believe the focus and ambit of these new laws is to smash the gangs and disrupt their business, but they will not do that. The only people who will be ensnared, entrapped and put on the wrong side of these laws are asylum seekers. I say candidly to the hon. Lady that we are creating new ways to further criminalise the most wretched people in the world, and that is a grotesque ambition for this Government.

I tried to find out from the senior law officers who gave evidence how many members of gangs would be apprehended and brought to justice as a result of these new clauses. The law officers could not tell me. I do not blame them for that; they probably did not know. I suspect it would be really difficult even to make some sort of guess about how many criminals would be brought to justice as a result.

I also asked what would be the ratio of ordinary asylum seekers to gang members—the ones who secure this vile trade—but the law officers could not tell me. However, I know and suspect, as I am sure they do, that nearly everybody who falls foul of the clauses will be an asylum seeker. I suspect they know—I do, and probably everybody else does—that very few gang members will be brought in front of any of our judiciary as a result of the provisions.

Chris Murray: There is an issue around taxonomy and categorisation here. Anyone is entitled to claim asylum. It is a universal human right. Anyone from any nationality and background, whatever their criminal history, is entitled to make a claim to be an asylum seeker. It is possible to be a member of a criminal gang and plan on claiming asylum. From my 15 years of working in the asylum and immigration service, I know it is an undeniable point of fact that some people exploit that to delay or get around the system, and we must act on such abuse.

Does the hon. Member agree that we have to be careful in our classifications? There is a distinction between an asylum seeker who has a genuine claim to refugee status but who might not be eligible, and someone exploiting the system.

The Chair: Before the hon. Member responds, that was far too long, Mr Murray. Please try to keep interventions short. Of course everyone is welcome to speak in the debate.

Pete Wishart: Thank you, Mr Stuart. That is a reasonable point; I think the hon. Gentleman is on to something. Of course some gang members will pretend to be asylum seekers, but it is up to the fine people who came in front of our Committee to determine and ascertain the truth. We should not create further ways to criminalise people that focus almost exclusively on asylum seekers. We must find ways to differentiate; we cannot have blanket, broadly defined clauses that include everybody.

The hon. Member for Edinburgh East and Musselburgh has a fine history and record of working with asylum seekers and refugees. He has seen the briefings, as I and all Committee Members have. He will therefore know that practically every charity and organisation that works with, and tries to improve the lives of, asylum seekers and refugees tells us that ordinary asylum seekers—those fleeing conflict, oppression and extreme poverty—will be the ones caught up in these new measures.

My amendments are very straightforward. Let us exclude asylum seekers from the provisions of clauses 13 and 14. I want to do that for a number of reasons, but the one the Minister might be most attracted to is that doing so will actually help the Border Security Commander. It will allow him exclusively to focus, laser-like, on the Bill's main target: the gangs that ply this evil trade. Let us forget about the riff-raff and the chaff. Let us focus our attention on those who arrange and organise this vile trade across the channel, and go for them.

2.30 pm

Tom Hayes (Bournemouth East) (Lab): Does the hon. Gentleman agree with what Rob Jones, the director general of operations at the National Crime Agency, said in his oral testimony last Thursday? He said:

"We are not looking to pursue asylum seekers who are not involved in serious and organised crime. That is not what we do. This is about tackling serious and organised crime and being as effective as we can be in doing that."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 35, Q35.]

If we read the tea leaves, it is almost as if the hon. Gentleman is saying that there is an intent to pursue asylum seekers. Moreover, the NCA's remit is already to be laser-focused and go after those gangs, as he recommends.

Pete Wishart: Rather lengthy interventions are a feature of this Committee, but I am happy to go with that if everyone else is. The hon. Gentleman is right to refer to the National Crime Agency. I listened carefully to what Mr Jones had to say to the Committee, and I have no doubt about his intention. I do not think he really wants to ensnare asylum seekers; I do not think that is his focus. But he has these two badly drafted and broadly defined clauses as the net that will scoop everything up. As the hon. Member for Edinburgh East and Musselburgh said, everybody will be in that net, and it will be a matter of trying to sieve them.

Why not start with the presumption that we will go for the gangs exclusively and leave aside those who come our shores to apply legitimately for asylum in the United Kingdom? Let us not waste time criminalising such people. The main problem, as I have said, is that the clauses are so broad in scope. They are not just a fishing net; they are a trawling net, trying to lift out everybody who comes across the channel.

The clauses cover not only direct acts of people smuggling, but incidental activities that may not involve any criminal intent. In combination with other clauses, they would make it a crime to supply or receive almost any item that one suspects could be used to facilitate illegal travel to the UK. The proposed legislation criminalises collecting or even viewing information that could be useful in making irregular journeys, if there is reasonable suspicion that it could assist others in migration. Although the Government couch a lot of this in humanitarian language, the provisions will not prevent deaths and harm at sea. Instead, they will criminalise people on the move who have no alternative route to the UK.

Let us look at the provisions in a little bit more detail. Supplying, offering to supply and handling articles for use in immigration crime will now get someone a maximum sentence of 14 years' imprisonment. Although there are some limited humanitarian exemptions—for example, offering food and drink—the provisions considerably broaden the potential prosecution of migrant assistance and support. Importantly, with all the proposed new offences, there appears to be no explicit defence for those who are on the move.

Then there are the provisions about collecting information for use in immigration crime. Such information includes arranging departure points, dates and times; in other words, information that it would be necessary to gather if someone attempted to make such a journey themselves. The Bill makes it clear that evidence could include someone's internet history and downloads. The Government contest this, but even looking up a weather map could put someone on the foul side of these clauses. I expect the Government will tell me, "No, of course that won't happen," but nothing in the clauses that we are debating states that that activity is exempt.

Becky Gittins (Clwyd East) (Lab): It is a privilege to serve under your chairship, Mr Stuart. Did the hon. Member feel that the Crown Prosecution Service gave that assurance at our evidence session last week? The witness categorically stated that such circumstances would not pass the criminal test or the public interest test. Does the hon. Member think it is important that we do not make such inferences when we discuss the Bill, so that we can see clearly how our criminal justice system applies these things?

Pete Wishart: That is a helpful and useful intervention, and the hon. Lady is right that the CPS did say that. I listened again very carefully to what was said, because concerns about these provisions have been raised repeatedly. I am sure that the CPS is serious about that, but I challenge the hon. Lady to look at the provisions and tell me how such a scenario could not be caught. The Bill is badly drafted because it provides the conditions to allow such a perception to develop. I know the Government do not want to arrest people who are looking at weather maps. I am certain that is not their intention at all, but when we examine the Bill we can see that it will allow that very thing to happen.

The Minister refers to the provision in section 25 of the Illegal Immigration Act 1972 or 1973—

Dame Angela Eagle: 1971.

Pete Wishart: 1971—there we go. Section 25 of that Act offers the protection of allowing for a reasonable explanation of why people are caught up in such activity. That is useful when it comes to this Bill, but why do we have to rely on something like that? We are creating a new Bill, which does something specific and unhelpful for some of the poorest and most wretched people who exist on our globe. We have a responsibility for those people under our international obligations and conventions, and this new legislation does nothing to assist them.

The collection of data from people's phones is facilitated by the Bill, which creates new broad powers to enable the search and seizure of electronic devices. I will come back to the main point I made on Second Reading. We did not get much time to elaborate on this, but I think it is pertinent to the clauses that we are debating, and the Committee must consider it properly.

The gangs have a monopoly and an exclusive right to the irregular migration market. There is no other way for asylum seekers to get to the UK. It just is not possible. There are safe routes available for a small number of countries, but for the vast majority of potential asylum seekers in war-torn regions, areas and countries around the world, the only way to claim asylum in the United Kingdom is to put themselves at the mercy of the gangs, and to go on a small boat to get across the channel.

Business is booming. I do not know if anyone saw the shots today from the camps in France—I think it was on Sky News. What a hell on earth they are! What a disgrace that is for us, who are part of the problem. We cannot get the situation resolved, and we are keeping some of the poorest people in such circumstances. Shame on us, and shame on everyone in the international community who allows such conditions to develop and thrive. Business is booming for the illegal gangs.

I will tell you something else, Mr Stuart. It will only get better for the gangs when the Government cut the international aid budget. What do they think will happen? Do they think that conditions in those areas will get better? Of course they will not. That will lead to so many more people making the journey to the UK, and it will be down to the Government.

Mike Tapp (Dover and Deal) (Lab): Will the hon. Member give way?

Pete Wishart: I hope the hon. Gentleman has some sort of reason for that.

Mike Tapp: I have an important intervention on that point. The Russians invading Ukraine and going further into Europe would create a much more serious refugee crisis than the one we are facing now. Increasing defence spending is very important.

Pete Wishart: I do not know whether the hon. Gentleman has noticed, but for the last three years we have had a refugee crisis from Ukraine—and there is such a distinction between how we have responded to Ukraine and how we have responded to everybody else. We put forward legal routes to allow Ukrainians to come to our country. My local authority, Perth and Kinross council, has the largest number of refugees from Ukraine in the whole of Scotland except the city of Edinburgh. I am immensely proud of the generosity of spirit of the people I represent who are taking part in that scheme.

Is it not so different when we allow schemes like that? That is what we are asking the Minister for. We will have a depopulation crisis towards the middle of the century, and immigrants might be at a premium by 2060 or 2070. Why have we not been inventive and creative? Why are we not looking to do things other than leave that mess—that disgrace—on the shores of France, as we have done to date?

I am sure the Minister will tell us that there is the defence of "reasonable excuse". I accept that, and I know that it applies to each of these new offences—in other words, if a person has a reasonable excuse for engaging in the relevant conduct, they will not be guilty of the offence. I know that that is exactly what she will tell me, and she is already indicating that that is the case. But the burden lies on the defence to adduce sufficient evidence of a reasonable excuse, and if they have done so, it is for the prosecution to prove the contrary beyond reasonable doubt.

To be fair, the Bill sets out a non-exhaustive list of circumstances in which the defence of reasonable excuse would apply. Under clause 13, for example, a person will have a reasonable excuse if

"their action was for the purposes of carrying out a rescue of a person from danger or serious harm".

They will also have a reasonable excuse if they were acting on behalf of an organisation that aims to assist asylum seekers and does not charge for its services. All that is purely a matter of judgment, and there does not seem to be a specific threshold for conviction. The maximum sentences for each of the new offences is pretty stiff and those for offences in clauses 13 and 14 in particular are disproportionately high. To put it in context, the offence of possession of articles used in terrorism has a maximum sentence of 15 years' imprisonment, but someone could get 14 years for falling foul of the provisions in clauses 13 and 14.

The Bill is likely to have an impact on the prison population—I think I heard the hon. Member for Stockton West address some issues about the prison population with the Minister.

Tom Hayes: It is a pleasure to serve under your chairpersonship, Mr Stuart, as I should have said earlier. Is the hon. Gentleman saying that the proposed sentence for the facilitation of small boat smuggling and criminal activity is too high? Did I hear that correctly? Please do correct me if I am wrong.

Pete Wishart: The hon. Gentleman is wrong, and he did not hear me correctly. I am talking about the new offences in clauses 13 and 14, falling foul of which could result in a maximum of 14 years' imprisonment. He might contend that that might get some gang member, but I am suggesting otherwise. I suspect that practically nobody from gangs involved in this vile trade will be caught up in these offences, but ordinary asylum seekers will be.

[Pete Wishart]

Lastly on the prison population, there is a notable lack of robust evidence that lengthier custodial sentences achieve a deterrent effect or a reduction in reoffending. That is explicitly not acknowledged in the impact assessment for the Bill, which states:

"There is limited understanding of the behavioural impact of this intervention, so the deterrence effect on dangerous behaviour may not be realised as intended."

I do not know whether the Minister believes that the new laws she is creating will make the slightest bit of difference to those who are in areas of conflict or fleeing oppression. I am not entirely sure that asylum seekers sitting down on the beach, or in the deserts of Sudan, in Afghanistan or in Iran, are the least bit cognisant of the developing, hardening and draconian laws of this country, put in place in Committees like this one. I suspect that they do not know about them—and, if they did know about them, they would not care less. Their sole and exclusive priority is saving their family's and their children's lives, and getting the hell out of that place.

That is the irritation; those asylum seekers could not care less about the Border Security, Asylum and Immigration Bill that is being debated here today. They want out, and they will do anything possible to rescue their family. Imagine that, after all that journey, after sitting in these boats, after being in the hands of the people smugglers and those gang members, they arrive in the good old United Kingdom, only to be apprehended on the basis of clauses 13 and 14 of the Bill.

2.45 pm

We heard from a variety of witnesses on Thursday that the laws of the destination country make absolutely no difference whatsoever to asylum seekers and do not work in the least as a deterrent, so I do not want to hear about the deterrence from the hon. Members opposite, because there is no evidence to suggest that that works or to support that contention. Come on! Let us take these wretched souls out of the equation, remove them from the legislation and go for the gangs that profit from this vile trade. Let us make sure that we have a Bill that we can be proud of, that we know what the Bill will do and that it will not entrap lots and lots of innocent people.

Mike Tapp: Thank you for your passionate speech; I am sure it gripped us all—

The Chair: His!

Mike Tapp: His speech—my apologies; I will not make that mistake again. It is really important that we look at what is covered in the Bill, and how it enables our Border Security Command, the National Crime Agency, the police, the border forces and the security services to act. We said before the election, in our manifesto, that we were going to take this on in a counter-terror style, so that we can get to those who are looking to launch the boats before they launch them. These clauses go some way to achieving that; I will not quote the NCA director general again, but he was very enthusiastic about that. The further clauses include acts taking place abroad and not just in the United Kingdom.

On the specific amendments, we must be clear. We do not know who is a genuine asylum seeker at the point that they seek to cross; we will not know for some time. The elephant in the room is that, even if they are genuine asylum seekers, they are in France. They are not in danger, as they would be in Sudan, and putting others at risk by preparing these crossings, facilitating them or being involved is not acceptable. Asylum seekers are not above the law, and these clauses ensure that they will be held to account.

Katie Lam (Weald of Kent) (Con): As hon. Members will have read, clause 13 creates a new offence of

"Supplying articles for use in immigration crime".

The offence has two limbs. First, that the person supplies or offers to supply those articles to another person, and secondly that, when they do so, they know or suspect that the item will be used in connection with any offence under sections 24 or 25 of the Immigration Act 1971—illegal entry and assisting unlawful immigration, respectively. I have a question for the Minister on the reasonable excuse elements of the clause. It is a defence for a person charged with this offence to show that they had a reasonable excuse. Subsection (3) defines a reasonable excuse as explicitly including that,

"(a) their action was for the purposes of carrying out a rescue of a person from danger or serious harm",

which seems reasonable, or,

"(b) they were acting on behalf of an organisation which—

(i) aims to assist asylum-seekers, and

(ii) does not charge for its services."

That second defence seems to the Opposition to create a large loophole in the law. Does the Minister accept that these defences will have the effect of exempting non-governmental organisations from criminal charges for helping asylum seekers to cross the channel? Why would the Government seek to do that?

The defence categorises organisations that aim to assist asylum seekers into those that do not charge for their services and those that do. Surely this criminal offence is a criminal offence regardless of who is responsible; why would it be any less criminal if someone does it voluntarily? Why is making money from something the determinant of whether it is a crime? As we heard in evidence, charities can be "mischievous"—I think that was the word used—in their activities and in how close they come to facilitating illegal crossings to the UK. Does the Minister accept that the activities of some charities can veer close to the line of facilitating illegal entry? If so, what do the Government intend to do about it?

The threshold for the defence is low. The accused simply needs to provide sufficient evidence to raise an issue, and the contrary must not be proved beyond reasonable doubt. Might that be why the Home Office impact assessment considers that between four and six prison places—I believe the central estimate is five—will be required per year once this steady state is reached? The Home Office has lauded the new powers and offences in the Bill as being key to smashing the criminal smuggling gangs, but it does not appear to consider that many people will be convicted under the new offences. How can both those things be the case?

Clause 14 creates the new criminal offence of handling articles for use in immigration crime. The person has to receive or arrange to receive a relevant article, remove or dispose of an article for the benefit of another person, or assist another person to remove or dispose of

a relevant article. Again, the clause provides the same defence to the offence as clause 13 does—namely, that the action of the accused was

"for the purposes of carrying out a rescue of a person from danger or serious harm",

or that they were acting

"on behalf of an organisation which—

(i) aims to assist asylum-seekers, and

(ii) does not charge for its services."

I therefore have the same questions for the Minister about this defence as I did for the defence in clause 13.

Clause 15 provides a definition of "relevant article" for the purposes of the new offences in clauses 13 and 14. There are exemptions for food and drink, medicines, clothing, bedding, tents or other temporary shelters, and anything to preserve the life of a person in distress at sea or to enable such a person to signal for help. Will the Minister set out the kinds of articles that she therefore expects to be captured by the offences in clauses 13 and 14? It would be useful to know what items the Home Office, Border Force and the police specifically wish to disrupt. There is also a power in clause 15 for the Secretary of State to amend the list of relevant articles. Will the Minister explain what purpose that power serves? The list of what counts as a relevant article is almost limitless, so does she envisage that the power will be used primarily to create exemptions?

The hon. Member for Perth and Kinross-shire has tabled amendment 3 to specify that if a person is an asylum seeker, they cannot commit the offence in clause 13: supplying articles for use in immigration crime. It would be good to understand why the Scottish National party does not think it is possible for asylum seekers to commit that offence. How are law enforcement officers supposed to know that a person is genuinely an asylum seeker—and even if they are, what happens if their application is subsequently rejected?

The hon. Gentleman also tabled an amendment to require the commander to include in their annual report information about how they have paid due regard to the Human Rights Act 1998 and the European convention on action against trafficking. My views are the same as those set out by my hon. Friend the Member for Stockton West on amendment 1.

Chris Murray: I apologise for my longer interventions, Mr Stuart; I will try to bundle them all into this speech.

One of the most important things that we heard during evidence was from Dr Walsh from the Migration Observatory. He said that demand for cross-channel crossings is essentially inelastic. Even if the price of a crossing doubles, there will still be demand for it; people rise to meet that price. That tells us that deterrence and disruption of the demand alone will never be enough to tackle the horrors that we are seeing in the channel at the moment. We must also disrupt the supply of ability to cross the channel. That is an important part of the Bill, and these clauses go right to the heart of it.

On the point about criminalising all asylum seekers, ahead of oral evidence, I read carefully the submissions we have had from organisations I have worked with in the past. I found the testimony of the Crown Prosecution Service very convincing. It stated clearly that in addition to the primary legislation, the CPS will produce guidance that will set out both the public interest threshold and evidential test that it would seek in order for a case to go to prosecution. It was very clear that the kind of hypothetical examples set out by the hon. Member for Perth and Kinross-shire would not meet that threshold.

On the point about decriminalising all asylum seekers, to clarify the point I was trying to make in my interventions, during a crossing anyone can declare themselves an asylum seeker. That then breaks down into different categories: someone who is genuinely eligible for asylum in the UK and will, when they go through the process, get refugee status; someone who is genuinely seeking asylum, but will not meet the threshold when they go through the process and will not get such status; and someone who knows that they are ineligible, or might be eligible on some counts, but is engaged in the criminal act of facilitating illegal entry into the UK and putting those other people's lives in danger. At that moment, it is not possible to distinguish between those people; the asylum process is there to do that.

Were we to accept the premise of the hon. Gentleman's amendment, it would be a wrecking amendment. I know it is not intended that way, but it would in reality be a wrecking amendment to any kind of intervention on a crossing at sea.

Pete Wishart: The hon. Gentleman neglects to mention one thing. He is correctly summarising what is happening with the amendments, but it is already illegal to arrive into the UK illegally—that is what is happening. That is why so many people have been arrested and are now being processed and sent back. It is illegal to come to the UK just now if you have no means to support yourself when you are here. All the Bill is doing is finding new ways to criminalise people. I do not know what the point of the new clauses is, when all that is already happening.

Chris Murray: The hon. Gentleman is making an important point, but I do not accept that the proposal is creating new criminal offences for all asylum seekers or for all people; it is creating new criminal offences for those engaged in the exploitation of people and the trafficking or smuggling of them across the channel in great danger. We cannot allow that to continue if we care about those people's lives at all.

In the constituency of every single MP in this room, there will be a cannabis factory where a probably under-age Vietnamese child is working at cultivating cannabis. If they arrived in the past two years, they came across in one of those boats. Significant, serious organised crime networks are exploiting the vulnerability of those people in order to facilitate such crossings. This proposal is how we stop them doing it, and that affects every one of our communities.

I am aware that I am testing people's patience, but I want to make two final points. The first is about the criminalisation of organisations that help asylum seekers. That is an important point, and the distinction has to be clear. I did have concerns about this measure being in the Bill, but the evidence sessions completely reassured me. The testimony of the CPS was that asking about the weather in Dover when in Calais, and those kinds of things, would not be facilitating immigration crime. The testimony that the National Crime Agency is using these measures to tackle serious and organised crime makes it clear what the purpose of the clauses is.

[Chris Murray]

The hon. Member for Kent—

Katie Lam: Weald of Kent.

Chris Murray: Weald of Kent, sorry—that is quite far south for me. The hon. Lady made a point about the sector and charging for services. Some organisations out there are charitable and provide services for free, and some organisations charge enormous fees and are extremely exploitative. That is where that distinction comes from. That would be my interpretation of the legislation.

Katie Lam: Presumably, though, it seems reasonable to think that there could be a third category, which is people who charge fees that are not exorbitant.

Chris Murray: That is absolutely right—but, in my experience of the channel coast and of working in the refugee sector, those do not exist. Anyone who was to do that would probably be giving immigration advice, which is a regulated component under UK legislation. That would be structured differently from someone on the coast or on a boat or vessel, in the way that this legislation sets out. I am happy to be corrected, but that would be my interpretation.

Finally, I come to the point about mobile phones and the different things listed that can be seized when a vessel is disrupted. Last week, we heard so much evidence—there is so much evidence out there—that the crossing of the channel is the final stage in a very long process involving criminal gang networks, organised crime networks and just immigration networks that stretch through Europe, including allied countries and countries very difficult for us to have relationships with. We know that those smuggling networks are all orchestrated by mobile phone, so it is important that the Bill incorporates that.

On the concerns that the hon. Member for Perth and Kinross-shire about criminalising the most wretched people in the world, the exemptions in the Bill are clearly humanitarian. They are clearly the kinds of things that people need to survive on a dangerous sea crossing or on their arrival. The only exception is their phone. It is because we know that the data taken from those phones is critical in the fight that phones are excluded. That is why it is important that that component remains in the Bill.

3 pm

Sarah Bool (South Northamptonshire) (Con): It is an honour to serve under your chairmanship, Mr Stuart.

These provisions relate to the supplying or handling of articles, the majority of which will, I assume, be held outside the UK. Clause 17, which we will come to, tries to ensure that the offences have effect outside the UK, but how does the Minister see that working in practice? The majority of people will be out of the realms of this law, so how will we enforce it?

On clause 14, on the handling of articles, the Law Society has great concerns that asylum seekers may be victims if they are forced to handle goods. How does the Minister propose to address that point?

Dame Angela Eagle: We have had an interesting debate, and Members have come at this complex problem from different angles. The hon. Member for Perth and Kinross-shire would give everyone who gets on the boats the benefit of the doubt, the hon. Member for Weald of Kent was somewhere towards the opposite end of that spectrum, and we had everything in between.

The important thing that we need to get right in this Bill is that we must give those who are trying to prevent dangerous boat crossings all the tools they tell us they need to help them deal with the criminal gangs that have been allowed to take hold across the channel and who are currently perpetrating this evil trade. We all agree that we want to stop that.

I am starting by talking about what we agree on, and I will then explain how the clauses will assist. We all agree that the right way to go about this is to ensure that the decisions about who is allowed to come into our country are taken by the authorities in the country, rather than by sophisticated, internationally organised criminal gangs with supply chains that go across many jurisdictions, and which make millions out of their illegal trade.

I want to give the Committee a couple of examples to put some flesh on the bones of what we are trying to do with the clauses in this group. Although people may think they are wide-ranging, their purpose is not to criminalise every asylum seeker, or even the vast majority of asylum seekers. Our approach will be intelligence-led. The National Crime Agency and others who police our borders have told us that these powers will assist them in doing the things they most want to do. The NCA gave evidence last week in which it said that its strategy is to prevent, which is to deter participation in organised immigration crime; to pursue, which is to disrupt the way that organised criminals work; to protect, which is to detect and act before the damage has been done—not wait until there are deaths in the channel, but stop small boats being launched in the first place—and to prepare, which is to manage and deal with the issues.

I am going to read into the record a couple of examples, to give Members an insight into what we are trying to achieve. These powers are short of those in section 25 of the Immigration Act 1971, because they relate to preparatory acts, which is what these clauses deal with. These are two case studies from the National Crime Agency. The first relates to the offence of handling articles. In November 2024, a man called Amanj Hasan Zada, who organised cross-channel small boat crossings from his home in Lancashire, was jailed for 17 years after being found guilty of people smuggling charges following an investigation by the National Crime Agency. Investigators were able to link him to three separate crossings made from France to the UK in November and December 2023, and he was convicted under section 25. Each crossing involved Kurdish migrants who had travelled through eastern Europe into Germany, Belgium and then France.

It is possible that the reasonable suspicion element meant that investigators would have met the requirements to arrest and charge him earlier, ahead of the section 25 powers becoming an option, if the new offences had been on the statute book when this was going on. This man was also moving between the UK and Iraq regularly, meaning that these powers would have assisted investigators. He was overseas, but he had access to some of these

articles when he was in the UK, so he would have been in the scope of the offence, and we would have been able to interdict and arrest him earlier and prevent those crossings from happening. Part of the idea of the new offences is that they are intelligence-led, but they relate to preparatory acts. They are attempting to disrupt before the more serious section 25 offence happens, and therefore they will prevent some of the damage done if that is allowed to happen because the authorities do not have enough evidence to arrest on the more serious offence.

Let me tell the Committee about another case study. An investigation into an Albanian organised crime gang using small boats to facilitate illegal immigration to the UK led to the arrest of an individual who was identifying rigid-hulled inflatable boats for sale on behalf of that gang. The gang subsequently bought and used the identified boats for organised immigration crime purposes. The individual was never directly involved in the movement of migrants or the purchase of those boats; he simply sourced them. The NCA provided evidence that they were on the periphery of the organised criminal gang and were researching for the gang to support their criminality. Despite that evidence, he was never directly involved in the actual facilitation, so the case could not go through to charging.

The preparatory acts offence would have enabled prosecution in that case, as the individual took part in the research and planning of acts to facilitate organised immigration crime, despite not being directly involved in the facilitation and illegal entry of migrants. Both the type of information and the circumstances the information was collected under would be captured by the new offence, and the evidence that the NCA had would have been sufficient for a sentence of up to five years.

We are talking about doing prevention work, to disrupt, to interdict and to stop some of this stuff happening before it has reached its full maturity and people's lives have been put at risk in the channel. It is a different approach. To sit, watch and wait until something has happened and people have perhaps died is one way of doing it, but the entire approach of the counter-terrorism style powers, of which the powers in this clause are an example, is what the NCA and other people have asked us to assist them with. They see the pattern in their information gathering: how these things are organised, what the patterns are, who is involved and how they do their business. They have demonstrated to me and others that these kinds of powers would be really useful in a preventive way and may very well save lives. I hope that giving those two examples will mean that we have more of a handle on the kind of things that the clauses are trying to do.

The hon. Member for Perth and Kinross-shire was worried that the powers will criminalise all asylum seekers. That is not the intention. The intention of these powers is to be completely intelligence-led and focused on perpetrators, whether they are on the periphery or directly involved. More than 95% of people whom we know of who arrive illegally on small boats claim asylum. The hon. Member's amendments, which would take all people who claim asylum out of consideration of these offences, would be an obvious way of avoiding the offences being brought to bear and could be used by any of the people who are involved in organised immigration crime to avoid the powers being used against them. Therefore, while I am sure it was not his intention at all, the effect of the amendments is to wreck the approach to prevention and disruption that these powers represent in the Bill.

I want to be clear—it is important that I put this on the record, so I will say it again—that it is not the intention to target asylum seekers with these new offences. The offences do not penalise individuals for entering illegally any more than they are penalised already, but they criminalise the conduct of activities connected to facilitation and illegal entry offences through the supply or handling of articles. In practice, the focus will be intelligence-led and targeted at those who law enforcement believe to be working in connection with organised criminal networks. Believe you me, Mr Stuart, those networks exist in the UK and they come across on small boats themselves. They also travel between the UK and some of the countries of origin they are working with. We know that that is exactly what happens because we can track and follow some of them. It is therefore important that we can bring these powers to bear. We know there are individuals who have claimed asylum in the UK and operated criminal activity from within the UK as part of a wider criminal gang with networks overseas in order to facilitate smuggling into the UK—I have just given the Committee an example. That is a phenomenon we are aware of today and we cannot exclude anyone with an asylum claim from the scope of these new offences, as the hon. Member for Perth and Kinross-shire would want us to, regardless of the circumstances.

Excluding asylum seekers fuels abuse and exploitation of the asylum system, as well as the intentional frustration of our criminal justice system, with those involved in the supply and handling of articles able to claim asylum on arrival or arrest and therefore evade prosecution. I am sure that that was not the hon. Member's intention, but I hope he will also take at least some comfort from what I have said about this power not being applied to everybody, but instead being very focused and intelligence-led. We cannot provide blanket exemptions. I hope given the explanation, he will therefore withdraw the amendments.

Turning more broadly to what the clauses will achieve in practice, clause 13 creates a new offence of supplying or offering to supply an article where the individual knows or suspects that the article is to be used in relation to an offence under section 24 of the Immigration Act 1971, which covers illegal entry, or section 25, which covers the facilitation of unlawful immigration.

Criminal smuggling gangs are using wide international and transnational networks to supply items for their criminal ventures. The new offence is intended to allow law enforcement to target those who act in a way that removes themselves from the direct act of people smuggling, so as to allow them to be caught under existing legislation. It will allow for earlier intervention, as in the example I have just used, potentially before boats have even been launched and lives risked. That is the prevention side.

3.15 pm

Clause 14 creates a new offence of handling items where the individual knows or suspects that those articles have been, are being or will be used in relation to an offence under section 24, on illegal entry, or section 25, on facilitating unlawful immigration entry, of the

Immigration Act 1971. Those who have that knowledge or suspicion and who receive or arrange to receive a relevant article, remove or dispose of a relevant article for the benefit of another, or assist another person to remove or dispose of a relevant article would be caught.

The clauses include important safeguards, some of which have been mentioned in the debate on this group. They include but are not limited to a person's actions being for the purpose of carrying out the rescue of a person from danger or serious harm, or that they were acting on behalf of an organisation that aims to assist asylum seekers and does not charge for its services. The new offences will allow for earlier intervention by law enforcement, who will be able to use intelligence-led methods to target individuals who are a number of stages removed from people smuggling, and allow them to be caught under existing legislation. These clauses enable law enforcement to act earlier and more quickly in tackling immigration crime and the wider criminal network involved in supporting this trade. The maximum sentence is 14 years' imprisonment, as colleagues have pointed out.

Clause 15 defines what articles are not in scope for the purposes of clauses 13 and 14, which concern supplying and handling articles for use in immigration crime. It specifies that relevant articles include any thing or substance that does not fall into the list of excluded items. The clause is deliberately wide in scope, to ensure that law enforcement can stay ahead of the rapidly changing modus operandi of these criminal people-smuggling gangs.

Clauses 13 and 14 rely on a test of what an individual supplying or handling items knew or suspected at the time of their actions, ensuring that although they are broad categories of item, those acting legally and in good faith will not be caught by the offences. Various colleagues have referred to the Crown Prosecution Service's evidence on the relevant guidance and codes, as well as the public interest test, which provides further protection to ensure that people who are innocently trying to assist are not caught up in these offences.

Clause 15 contains that carve-out for articles that will not be considered relevant for the offences in clauses 13 and 14, including food, medication and safety equipment such as proper lifejackets—as we know, many of those who get into the boats are given fake ones, which sink and do not keep anything afloat.

The clause also gives the Secretary of State the power to amend the list of carved-out items by regulation, but only to add items to the carve-out—the hon. Member for Weald of Kent talked about that. This is a Henry VIII power, which none of us particularly likes to see, but it is a power to add to the list of excluded items. It can be used only to add items that we wish to carve out from the offence, not to take them away. For example, the Henry VIII power could not be used by a subsequent Minister—not me—who would want to take food or medication out of that list. The idea behind that is to ensure that the offence can be kept up to date if trends change and different things start to be used. Any regulations would be subject to the affirmative process and would undergo scrutiny by each House before they could be made and the list amended. I hope that that gives the hon. Lady some reassurance on the questions that she asked.

Pete Wishart: I wish I could say that I was reassured by the Minister's response. There were things she said that encouraged me and that I think she was genuine and sincere about. She, and everybody who has contributed today and who we have heard from over the past couple of weeks, is right that we do not want to arrest asylum seekers. That is the last thing we want to do, and I accept that that is the case in practically everything that anybody has said. However, more asylum seekers will be arrested because of these clauses. More will be facing justice, whatever way it applies, right across the United Kingdom because of these new offences.

What we have forgotten is that it is already illegal to enter the UK irregularly. In 2020, 6,477 people were arrested because they arrived in the UK irregularly. With clauses 13 and 14 we are not addressing the illegality of issues such as people coming to the United Kingdom; we are finding new ways of ensuring that those people will be subject to court proceedings—to being on the wrong side of UK law—and that is the thing that concerns us most.

Many people have referred to agencies that gave us support today. I listened to the NCA's evidence, and some of it was very interesting and compelling. I accept that it wants to target the gang members and those involved in this violent trade, and that is what we should be helping it to do. Obviously, asylum seekers will get caught up in all that, but let us enable the NCA to focus exclusively on trying to apprehend the gang members and secure justice rather than trying to find new ways to criminalise people coming to the UK,.

Dame Angela Eagle: Will the hon. Gentleman not take my word that the offences will be intelligence-led? They are not targeting all asylum seekers, but they certainly would target someone coming over on a boat who may claim asylum, who has been involved in an organised immigration gang, and who has been organising the supplies for it.

Pete Wishart: I obviously accept the Minister's word when it comes to all this, but we need to look at what is in the Bill. There are measures that we do not like and that we do not think will help to achieve the major objective, which is to disrupt the gangs' business model and ensure that they are brought to justice. That just does not happen with these new clauses. The measure to which amendment 3 refers does not offend me in the same way that the subject of amendment 4 does. I will withdraw the amendment, but I reserve the right to push the next amendment to a vote. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 13 ordered to stand part of the Bill.

Amendment 4 negatived.

Clauses 14 and 15 ordered to stand part of the Bill.

Clause 16

COLLECTING INFORMATION FOR USE IN IMMIGRATION CRIME

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

Dame Angela Eagle: The provisions in clause 16 create an additional tool to act earlier to disrupt criminal gangs smuggling people into the UK. The new offence targets specified preparatory activities associated with people smuggling. These activities relate to the collection, recording and possession, viewing or accessing of information that is likely to be useful to a person organising or preparing for a journey of more than one person into the UK, where their entry or arrival constitutes an offence under section 24 of the Immigration Act 1971. These specified activities must also be conducted in circumstances giving rise to reasonable suspicion that the information being collected, recorded, possessed, viewed or accessed will be used in organising or preparing for such a journey.

This clause is levelled strongly against people-smuggling gangs and their associates. It includes a defence for someone of undertaking these specified activities for their own journey only. Also included as a defence is a non-exhaustive list of reasonable excuses, where one express excuse is conducting these activities to carry out or to prepare to carry out the rescue of a person from danger or serious harm. The maximum sentence for this offence is five years' imprisonment.

Katie Lam: Clause 16, as the Minister has just set out, creates a new offence of collecting information for use in immigration crime. A person commits such an offence if a person:

"collects or makes a record of information of a kind likely to be useful to a person organising or preparing for a relevant journey or part of such a journey…possesses a document or record containing information of that kind, or…views, or otherwise accesses, by means of the internet a document or record containing information of that kind."

This is an extremely wide set of information that is being criminalised. We understand the desire to keep these offences broad in order to capture as many offenders as possible, and we support that aim. However, if the definition is too wide, there is a risk that it becomes meaningless and therefore self-defeating. So, it is important to understand how the Minister believes law enforcement will assess whether the information is of a kind likely to be useful to a person organising or preparing for a relevant journey. Could she please explain how this test will be met in practice? It would also be helpful, for similar reasons, to know when the CPS will publish its guidance on what might meet the threshold for an offence to be committed under this clause. Finally, it is again a defence for an organisation that aims to assist asylum seekers if it does not charge for its services. So, we have the same questions and concerns about this defence as we did in relation to the preceding clauses.

Mike Tapp: I will quickly talk about this clause, because it is one of my favourite clauses in the Bill. Having worked in a counter-terror role in the past, I know that one of the most effective ways of preventing terror attacks on the streets of the United Kingdom is by identifying hostile reconnaissance, whether it is physical or online. That is why I am so happy to see this clause in the Bill, because it gives our authorities the opportunity to get to these vile criminals before they take to the seas.

Dame Angela Eagle: I take my hon. Friend's point. This clause is very much about being able to capture preparatory work for any effort to evade our immigration laws and bring people over in small boats, illegally putting their lives at risk and potentially costing lives in return for money.

This clause is about a wide range of potential research, but there are also explicit safeguards within it that are sufficient to protect individual migrants and refugees, or families of refugees, trying to help family members to flee danger or serious harm. The defence that a person is conducting these activities exclusively in preparation for their own journey protects individuals from falling foul of this law. The clause is explicitly focused on and aimed at the work done by gang-affiliated facilitators of immigration offences.

The express reasonable excuse of

"carrying out, or preparing for the carrying out of, a rescue of a person from danger or serious harm"

may—depending on the circumstances—protect the families of refugees wanting to help their loved ones flee. There is also an express reasonable excuse for a person

"acting on behalf of an organisation which…aims to assist asylum-seekers, and…does not charge for its services."

The list of reasonable excuses in the Bill is not exhaustive, so it is very much a question of looking at the information that has been gathered and making a judgment, knowing that the idea of this offence is to focus specifically on organised immigration criminality, not the individuals who may be asylum seekers or may be being trafficked.

3.30 pm

The gangs organising these journeys do not care about the safety and wellbeing of the people whom they are smuggling to the UK. They only care about profiting from this trade. Given the threat to life and bodily harm that these perilous journeys into the UK present to migrants, tragically including children, it is not appropriate to provide an explicit reasonable excuse that can be relied on by someone putting their child, or anyone's child, in that kind of danger.

Practically, there are questions of operational benefit and public interest. As I said in the earlier debate, it is not our aim further to penalise migrants who come to the UK illegally with their children on such journeys. Those who are worried that, just by the mere fact of getting into a boat, one would fall foul of this clause are wrong. This is focused particularly on the activities of those who are affiliated with organised immigration gangs that are seeking to profit. With that reassurance, I hope that colleagues will be happy to add the clause to the Bill.

Question put and agreed to.

Clause 16 accordingly ordered to stand part of the Bill.

Clause 17

Offences committed outside the United Kingdom

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

Dame Angela Eagle: Clause 17 provides for the offences set out in clauses 13 and 14—the supply and handling of articles for immigration crime—and clause 16—the collecting of information for immigration crime—to

[Dame Angela Eagle]

apply to activities committed both inside and outside the UK, regardless of the nationality of the person by whom they are done. The activities criminalised by these offences are often carried out overseas, as well as in the UK, by perpetrators of various nationalities to facilitate people smuggling to the UK. This clause will strengthen the offences, enhancing the ability to disrupt those involved in this trade, indiscriminate of their nationality and the location of their crime.

Clause 17 also makes provisions for, where an offence under clauses 13, 14 or 16 is committed outside the UK, proceedings to be taken in the UK. For application in Scotland, this clause provides that those proceedings are to be made in accordance with the relevant processes and bodies of the devolved Administration. Finally, this clause provides that section 3 of the Territorial Waters Jurisdiction Act 1878, which requires consent from the Secretary of State for certain prosecutions of non-UK nationals on territorial waters, does not apply. In doing so, the impacts of these offences are not narrowed and law enforcement is able to pursue perpetrators of these offences when committed on territorial waters.

Katie Lam: Clause 17 sets out that the offences of supplying articles for use in immigration crime, handling articles for use in immigration crime and collecting information for use in immigration—so the clauses that we have just discussed—apply to things done both inside and outside the United Kingdom, regardless of the nationality of the person by whom they are done. In essence, clause 17 makes these three new offences extraterritorial. Subsection (2) provides that where the offence is taken outside the United Kingdom, proceedings may be taken in the United Kingdom.

When we heard evidence from Sarah Dineley, the head of international at the Crown Prosecution Service and the national CPS lead, she said that this provision and subsection (7) of clause 18, which extends the offence of endangering lives at sea to acts committed outside the UK, create challenges. She said,

"we can obtain intelligence and evidence from our overseas counterparts at both judicial and law enforcement level…the Crown Prosecution Service has a network of liaison prosecutors based across the world…we can issue what are called international letters of request. They require the recipient country to execute the action, or to provide the information that we have asked for."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 31-33, Q30.]

However, she also said that, for these new offences to work, there has to be "dual criminality"; that is to say,

"there has to be the equivalent offence in the country that we are making the request to, and there are some gaps across Europe in establishing dual criminality for all the immigration offences that we currently have on our books."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 33, Q33.]

Can the Minister reassure the Committee that offences equivalent to those in clauses 13, 14 and 16 exist internationally in relevant partner countries so that we can be assured that the extraterritorial scope of the offences will be effective in tackling organised immigration crime? Can she name those offences or share a list? We fully support the aims of the Government but are keen to establish the efficacy of these measures in disrupting the vile work of people-smuggling gangs.

Dame Angela Eagle: I thank the hon. Lady for her observations. In practice, the clause allows for prosecution where an offence was committed overseas. It may well rely on evidence sharing from an international partner. She is right to talk about the network of CPS prosecutors across other jurisdictions.

In the time that I have been in the Home Office, we have been strengthening those ties and growing them further. We have done a lot of work via arrangements such as the agreement we came to with the Italians; the German agreement; the work we have done with the Calais group; the information we are sharing in and around the Balkan countries about the routes that go through those countries; the work that the Home Secretary and the Border Security Commander have done in not only Italy, but Iraq, the Kurdish region and Tunisia and some of the other countries that tend to be countries of transit. We are focusing more and more on how we can co-operate operationally.

Some of that work involves cross-country and cross-jurisdiction work to hit particular organised immigration crime across the piece on a set day. There have been some very good examples of cross-jurisdictional days of action. The muscles in this area are strengthening and being worked more. This clause is an added power that will make it easier for us to continue that work.

Tom Hayes: I draw attention to what Sarah Dineley, the head of international at the Crown Prosecution Service, said in her testimony:

"I will start with how we rebuild relations with key allies."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 38, Q41.]

That implies that relations with key allies have been strained and need rebuilding. She then said:

"I have talked about our network of liaison prosecutors."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 38, Q41.]

She then talked about how there is regular engagement and said that engagement events with overseas prosecutors have increased in recent months. Does the Minister agree that one of the reasons we have had an asylum backlog in recent years, and our asylum system has been described as a disaster, a meltdown and worse in oral testimony, is that we strained our relations with key allies?

Dame Angela Eagle: Yes. When things are cross-jurisdictional and cross-country, one has to be able to co-operate with other jurisdictions with some respect for their particular prosecutorial approach in order to be able to share information and work together operationally and diplomatically to deal with the significant challenges that organised immigration crime presents. The Government certainly want to renew and strengthen their approach in that area, and have made a good start.

People should not underestimate how often people who break this law and would fall foul of this increase in jurisdiction come to visit the UK. It is possible that we could pick them up and charge them here and, in some instances, follow them and wait for them when they arrive. The extension of jurisdiction, which is the essence of clause 17, will provide us once more with what we hope will be an extremely effective new tool that will help us to disrupt and begin to dismantle some of the organised immigration criminal gangs.

Question put and agreed to.

Clause 17 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.—*(Martin McCluskey.)*

3.40 pm

Adjourned till Thursday 6 March at half-past Eleven o'clock.

Written evidence reported to the House

BSAIB16 JUSTICE

BSAIB17 Jesuit Refugee Service UK

BSAIB18 Taskforce on Survivors of Trafficking in Immigration Detention ("Detention Taskforce")

BSAIB19 Asylum Matters

BSAIB20 Asylos, Helen Bamber Foundation, Asylum Aid, ILPA, Migrant and Refugee Children's Legal Unit (MiCLU), Public Law Project, Rainbow Migration, Women for Refugee Women and Shpresa Programme (joint submission)

BSAIB21 Southampton and Winchester Visitors Group

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Fifth Sitting

Thursday 6 March 2025

(Morning)

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

not later than

Monday 10 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, Dr Andrew Murrison, † Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 6 March 2025

(Morning)

[Graham Stuart *in the Chair*]

Border Security, Asylum and Immigration Bill

11.30 am

The Chair: Would all Members ensure that electronic devices are turned off or switched to silent? We now continue line-by-line consideration of the Bill. The grouping and selection list for today's sitting is available in the room, as well as on the parliamentary website. I remind Members about the rules on the declaration of interests, as set out in the code of conduct.

Clause 18

Endangering another during sea crossing to United Kingdom

Matt Vickers (Stockton West) (Con): I beg to move amendment 17, in clause 18, page 11, leave out lines 24 to 26 and insert—

"(c) the vessel in which the person travelled could not reasonably have been thought to be safe for the purposes of reaching the United Kingdom."

This amendment would apply the new offence of endangering another during a sea crossing to the UK to any individual who tries to enter the UK illegally and makes their journey in an un-seaworthy vessel, removing the requirement for the individual to have done an act to cause or create a risk of death or serious injury.

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

Amendment 5, in clause 18, page 11, line 36, at end insert—

"(E1C) (a) For the purposes of subsections (E1A) and (E1B), a person cannot commit an offence if the person is an asylum seeker.

(b) For the purposes of this subsection, 'asylum seeker' means a person who intends to claim that to remove them from or require them to leave the United Kingdom would be contrary to the United Kingdom's obligations under—

(i) the Refugee Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999), or

(ii) the Human Rights Convention (within the meaning given by that 35 section)."

This amendment would specify that the offence created by clause 18 ("Endangering another during sea crossing to United Kingdom") cannot apply to asylum seekers.

Amendment 15, in clause 18, page 12, line 5, leave out "six" and insert "fourteen".

This amendment would increase the maximum penalty for the offence of endangering lives at sea to fourteen years.

Amendment 16, in clause 18, page 12, line 9, leave out "five" and insert "fourteen".

This amendment would increase the maximum penalty for the offence of endangering lives at sea to fourteen years.

Clause stand part.

Matt Vickers: It is a pleasure to serve under your chairmanship, Mr Stuart. Clause 18 creates a new offence of endangering others' lives during a sea crossing from France, Belgium or the Netherlands to the United Kingdom, which results in the commission of an existing offence under section 24 subsection (A1), (B1), (D1) or (E1) of the Immigration Act 1971. Proposed new subsection (6) to section 24 of the 1971 Act states that this offence

"applies to acts carried out inside or outside the United Kingdom."

The provision is necessary for this offence. Can the Minister explain whether partner countries have comparable offences to this one that can be used to apprehend people in France, Belgium and the Netherlands?

The former director general of Border Force, in his evidence to the Committee, was clear that clause 18 would be more effective if operated by French enforcement agencies, rather than in the UK, as most of the offences occur in French territory. Can the Minister reassure the Committee that, in order to successfully prosecute these offences in the UK, UK Border Force will be able to gather evidence collected outside the UK? Can the Minister guarantee that French support in providing that evidence will be forthcoming? What guarantees has the Home Office been given?

In order to be prosecuted under clause 18 for offences committed in French territorial waters, people would need to be transported to this country if they are not already here, which would have the rather perverse outcome of more people coming and being able to claim asylum. As I have not been able to find any reference to that in the impact assessment, I would like the Minister to share with the Committee what the justice impact tests showed for this new offence. How many new prison places are going to be required at steady state? In other words, how effective does the Minister think the new offence will be?

The Opposition tabled amendment 17 as we suspect that the new offence is not going to be greatly used. Amendment 17 would apply the new offence of endangering another during a sea crossing to the UK to any individual who tries to enter the UK illegally and makes their journey in an unseaworthy vessel, removing the requirement for the individual to have done an act to cause or create a risk of death or serious injury. If a person has crossed to the UK in a small boat, they have by definition endangered both their lives and the lives of others at sea. Those boats are unseaworthy, overcrowded and everyone who gets on board is responsible for that position. It is not just the lives of people on those dangerous vessels that are placed in danger, but potentially the lives of those who rescue them.

We have tabled amendments 15 and 16 to increase the sentence for the offence to 14 years. Before the Nationality and Borders Act 2022 was passed, section 25 offences attracted a prison sentence of up to 14 years. The 2022 Act increased the penalty to life imprisonment in order to discourage unlawful facilitation of migrants to the UK, so why are the offences in this Bill for endangering lives at sea so much lower?

Since the Government have scrapped the Rwanda deterrent, we would like to help them to make this damp squib of a Bill a bit more of an effective deterrent to those considering making such a dangerous crossing from a safe third country. That is why we have tabled amendments 17, 15 and 16: to demonstrate that if an

individual gets on an unsafe boat to cross the channel, thereby committing an immigration offence, they will be found guilty of endangering lives at sea. Then, as a foreign criminal, their deportation should be easier for the Home Office.

If the Minister is not going to accept our amendment, which would ensure that everyone arriving on a small boat should be found guilty of endangering lives at sea, I would like her to explain how people who cram themselves into overcrowded and unseaworthy vessels have not endangered themselves, others on that vessel and those who have to come to their rescue.

Tom Hayes (Bournemouth East) (Lab): It is an honour to serve under your chairpersonship today, Mr Stuart.

Does the hon. Gentleman agree that on average we are seeing the number of people per boat increasing each year? He alluded to that earlier, and it means that more and more people are crowding into each small boat—he is nodding, so he seems to agree. Does he also agree that, because we are seeing more and more people crowded into these small boats, it is accounting for a rise in the number of people who are crossing the channel in small boats?

Matt Vickers: Yes—it is the case that more people are coming on fewer boats. Equally, however, there is also a rise in the number of boats that are coming across. I think that both those things are problematic. One thing that we know about these boats being filled with yet more people is that they become ever more dangerous, and we have seen some of the horrible consequences and fatalities as a result of that.

Amendment 5, tabled by the Scottish National party, specifies that the offence created by clause 18—endangering another during sea crossing to the United Kingdom—cannot apply to asylum seekers. Surely, that would render the new offence even more ineffective, as it will not be possible to charge people until their asylum claim has been determined. Someone is perfectly capable of endangering lives at sea, whether they are an asylum seeker or not.

Mike Tapp (Dover and Deal) (Lab): I will respond to some of the points that the hon. Member for Stockton West has just made, starting with the point about the French. Under the last Government, we saw what amounted to Twitter diplomacy, continuous bashing of the French online and in the papers, and a breakdown of that relationship. Since we came into Government, we have seen that Keir and Yvette, who was out there in France recently, have looked to reset that relationship and rebuild it. I believe that recent visits that Yvette has made to France, including one that involved a meeting with the French Minister of the Interior, have been very productive. The French are looking at their laws and considering how they can improve things on their side—*[Interruption.]* I apologise, Mr Stuart. I mean the Home Secretary, not Yvette. The smaller Committee Rooms sometimes result in some informality.

As I was saying, the French are looking to readdress their laws, including things such as intercepting boats in shallow water, which to date has been neglected. That adult approach to politics and working with the French will help us to reduce the number of these boat crossings.

Chris Murray (Edinburgh East and Musselburgh) (Lab): It is a pleasure to serve under your chairmanship, Mr Stuart.

My hon. Friend is making a really important point: these cross-channel operations and strategies are more diplomatic than they are legislative. Does he agree that, because the UK is unusual in that our Border Force is not a police force, whereas the French police aux frontières, the Belgian police and all other European border agencies are police forces, we have very different kinds of operations and structures, and this work needs to be done gently, through diplomacy and not through amendments to legislation?

Mike Tapp: I thank my hon. Friend for his intervention. He makes the powerful point that the French need to be engaged with diplomatically rather than being bashed on social media, which damages our relationship with them. The way forward here is to continue with that gentle diplomacy to bring about the changes in their laws that may well benefit the United Kingdom. We have already seen results on that front in Germany. The Germans have changed laws around the facilitation of the kit to be used for these crossings, so diplomacy is already yielding positive results, and I expect we will see more of that.

My second point is that this amendment is fantasy land from the Opposition. We inherited a justice system that was completely broken and on its knees, with just 2% of prison places still available. Do the Opposition propose sticking all these people in prison? If so, where are those prison places going to come from, given what we have inherited?

Pete Wishart (Perth and Kinross-shire) (SNP): It is a real pleasure to serve under your chairmanship for a second day, Mr Stuart. I rise to speak to amendment 5 in my name.

Of all the new criminalising clauses in the Bill, this is the one that concerns me most. It is the most invidious and cruel. As we have heard, the clause proposes a new criminal offence of endangering another during a sea crossing, with a proposed maximum sentence of six years' imprisonment. The offence is defined as committing an act that creates a risk of death or serious physical or psychological injury to another person during a sea journey from France, Belgium or the Netherlands to the UK—in effect, all the sea journeys across the channel by, mainly, asylum seekers who are seeking refuge in the UK.

How that is supposed to be assessed is anyone's guess. Any potential transgression of the clause could happen only in the most chaotic of circumstances—on a small boat where people will probably be struggling for their lives to try to get here. The only witnesses to any transgressions of this clause will be other traumatised souls who had the great misfortunate to be there at that time. The new offence is concerningly broad, and explicitly aimed at people on the move; it exclusively and directly targets those on the boats.

Which people may get caught up in this offence? The first category that comes to mind is those people who may have been offered rescue by the French but refused the opportunity of rescue. But why would they take that opportunity? These are people who have travelled thousands

[Pete Wishart]

of miles to try to seek asylum in the United Kingdom. I am supposing that they make up the first category that the Minister has in mind with this offence.

However, it is also possible to prosecute individuals who, in moments of panic or self-preservation, inadvertently put others at risk. That means that someone who makes a sea crossing out of desperation could face a prison sentence simply because of the circumstances of their arrival, rather than any deliberate intent to cause harm. This law makes no attempt to take account of the high risk and chaotic nature of these journeys, where panic, misjudgment or even attempts to help others could inadvertently lead to criminal liability.

What makes the clause particularly invidious, and why we should think about it very carefully, is that it does not do even one thing to tackle what the Government say they are tackling: the gangs—the people who organise this foul trade and are responsible for putting people on the boats. It does nothing to target them. The only people who will be in the sights of this invidious, cruel clause will be ordinary asylum seekers.

The refugee convention is clear that refugees should not be penalised for how they enter a country to claim asylum. The clause runs a coach and horses through that obligation. It also breaches the Palermo protocol, which enables asylum seekers to claim asylum freely and honestly. The European convention on human rights memorandum states that

"parents who bring their children on the type of journeys that the Endangerment Offence captures will be excluded from prosecution in almost all circumstances".

The key words are "almost all": there could still be prosecutions, and the memorandum notes that that could lead to families breaking up.

There is another main target of the offence. It is designed to entrap and ensnare those who pilot the boats. Let us look at how far we have come with this new distinction and new category of people that the Government are now going after. It was in 2019 that the Government started bringing criminal charges against people identified as steering dinghies across the channel. Prior to this clause, those identified as piloting boats have usually been arrested and charged with the offence of facilitating a breach of immigration law under section 25 of the Immigration Act 1971.

The Nationality and Borders Act 2022 increased the maximum sentence for that offence to life imprisonment. In most cases, the second charge is dropped due to a lack of evidence—as I explained, the deeply chaotic circumstances where evidence could be acquired lead to a lack of evidence being presented in court proceedings. However, there have been some successful section 25 prosecutions. For example, they can happen when a person pleads guilty to an offence at the first opportunity before it is dropped.

11.45 am

Here is the thing: every dinghy must have at least one person steering it in order to facilitate safe travel. Where there is demand to cross irregularly, particularly in the absence of other safe routes, someone will always be tasked with steering that small boat. If there was no one to steer it, it would set out into the channel, go round and round in circles for a certain amount of time, and then it would sink. I do not think that is what the Minister wants, so somebody will have to take the responsibility for steering that small boat. That is usually left to the people without resources, who cannot afford to give the smugglers in the gangs the money they require to get on that boat at source. They are usually the ones left with this particular, invidious task, in order to get the boat across the channel.

I will give the Minister a couple of examples. I listened carefully to the examples she gave us in the Committee the other day, and they were pretty good examples, but I want her to respond to some of my examples of the type of people who will be caught up in this offence, and ask her whether she thinks that they are fair and just. The first is a well-known case; I am certain that practically everybody in the Committee will be familiar with the case of Ibrahima Bah, who was convicted of gross negligence manslaughter in 2024 despite the court recognising that he was not a trafficker. He was seeking asylum and was coerced into piloting a boat by smugglers. As everybody knows, in that tragic circumstance four people died as a result of being on an overcrowded and unsafe boat.

Despite Mr Bah's protest at the point of departure that the vessel was unsafe, he was forced to pilot it. He solely has borne the brunt of the legal consequences, rather than the criminals who orchestrated and designed that dangerous journey. Because it was a tragic case that received so much attention, someone had to be found culpable and guilty—step forward Mr Bah. Ibrahima Bah is 20 years old and is now starting his nine-year sentence in a young offenders institution—I stress, a young offenders institution.

I will give another example, just to see what the Minister thinks. Fouad Kakaei—I hope I am pronouncing the name correctly—was convicted of illegal entry and facilitating the illegal entry of others in the dinghy he steered for a time and a period in December 2019. He, like all the other migrants onboard that unfortunate vessel, had paid agents to allow them passage on the vessel, and at some point during that crossing they all took turns steering the boat. Of course they took turns steering the boat; if they had not, a disaster would almost certainly have happened. Mr Kakaei denied any financial motive, a fact accepted by the prosecution. He said he was trying to reach safety and to help others in the same situation. He was doing this in order to help others in the same situation. He was sentenced to 26 months' imprisonment.

I have many more examples, Mr Stuart, but I know that they would tire you and you would insist that I move on. I am happy to send on to the Minister the other examples of people like Mr Bah and Mr Kakaei, who have been caught up in all of this through no fault of their own and are now spending time in prison. These cases demonstrate the sheer cruelty and unjust nature of the clause, and the fact that we already have the powers. They were convicted under existing legislation, so what is this all about? Why are the Government using this clause to entrap even more people—to go for even more specific types of asylum seekers?

We have heard again and again—I am pretty certain we will hear it yet again—that the Government's intention is to use this offence as a deterrent to stop people from piloting boats and from coming to the UK through irregular means in the first place. The Government could not be more naive if they tried.

I listened to the Conservative spokesperson, the hon. Member for Stockton West—he thinks that all we have to do is criminalise everybody who gets on a boat, arrest them and jail them. Does he seriously think that that is going to have any impact? Does he really think that somebody sitting in South Sudan is thinking about what some Tory immigration spokesperson thinks should happen to them when they arrive? They could not care less about that. We know that the deterrent argument is bunkum—it is rubbish; no one actually believes that anything that we design in these ever-hardening pieces of legislation is going to have the slightest impact on people deciding whether to set out to try to claim asylum in the United Kingdom.

In 2023, 244 people were charged with illegal arrival having arrived on a small boat, 88 of whom were identified as steering. Over the first six months of 2024, 64 people were charged with illegal arrival, including 38 who were identified as the person steering the boat. The latest data shows that in the first six months of the Labour Government—I do not know whether it is better or worse under them—86 people on small boats were arrested for illegal arrival, including 48 people identified as piloting the dinghy. The Government have the powers, and they have the legislation. They could use them, and they have used them, so I do not know what the clause is about.

There are already enough asylum seekers being prosecuted without this clause. There is an over-representation of people who have come from countries such as Sudan and South Sudan, who find themselves getting caught up in this legislation—they cannot afford to pay for their trip and they are therefore coerced or forced into piloting in order to secure a place on the small boat.

The introduction of this new, broader offence raises the question of whether the Government's intention is to punish smugglers or simply to further criminalise people seeking asylum. That is why my amendment 5 asks that ordinary asylum seekers who are seeking refuge in the United Kingdom are excluded from the provisions of the clause.

Many individuals and organisations that also provide support to asylum seekers, whether through humanitarian aid, legal advice or practical assistance, could also find themselves in legal jeopardy because of some of the issues around the Bill and this clause. They include charities offering food and shelter to those in transit, lawyers advising on asylum claims, and even friends and family members who offer guidance on when to cross the channel safely.

Under the new provisions, such actions could be interpreted as aiding and supporting irregular migration, despite well-intentioned humanitarian motivations. I do not know about you, Mr Stuart, but I am appalled at the prospect that the people who have looked at this issue, studied it and who have sent us all this evidence and information—those who support some of the most wretched people to ever to reach our shores—could be caught up in the Bill.

The clause represents a further entrenchment of an enforcement-led approach to migration that prioritises deterrence over protection. The human cost of this Bill is far too high, and its provisions risk punishing the very people who we should be supporting. Surely we need to prioritise an approach rooted in humanity, justice and practical solutions over one driven by punitive deterrence, which tries to criminalise even more of these poor souls who end up on the shores of our country.

Margaret Mullane (Dagenham and Rainham) (Lab): It is an honour to serve on your Committee, Mr Stuart. I thank the hon. Members for Perth and Kinross-shire and for Stockton West for their contributions. There are a few points I want to make. Clause 18 already outlines provision within the lines that amendment 17 seeks to remove. Naming the act of supplying an unseaworthy vessel, while removing the broader terminology of an act from the Bill, sets a precedent where we would have to outline all possible acts within the Bill. That is wholly unnecessary and not in keeping with the structure of the Bill. Although providing an unseaworthy vessel is the initial act that causes risk to life, amendment 17 would serve to de-prioritise further acts of criminality that could endanger life in a sea crossing. The wording already in the Bill provides sufficient scope to address what the amendment seeks.

Following on from this, I think everybody in this room agrees with the sentiment of amendment 5—that genuine asylum seekers are vulnerable—but it is also important to recognise that someone with the right to asylum could be involved in criminality. The Bill already establishes, through clauses 16 to 18, the provision of a reasonable excuse as a defence, creating a clearer distinction between humanitarian activity and genuine asylum seekers, journalistic or academic works, and those involved in immigration crime as well. I believe that the hon. Member for Perth and Kinross-shire has already conceded that point, having withdrawn amendments of a similar nature.

Tom Hayes: It is an honour to follow my hon. Friend the Member for Dagenham and Rainham, who made a very persuasive case. She has stolen much of what I was going to say, which is actually quite helpful. I want to start by reflecting on the international situation, following up on the equally persuasive points made by my hon. Friend the Member for Dover and Deal about the relationship between the UK and France. It is worth reflecting on where we are. The current Home Secretary was the first to visit northern France in almost five years. Using a parallel Conservative political time continuum, that was six Home Secretaries ago.

In December, we had the meeting of the Calais Group in London, which was able to agree a plan to tackle people smuggling gangs. We have seen the Home Secretary and Interior Ministers from G7 countries, Germany included, meeting in Italy to agree a new joint action plan. We have seen the French Government appoint a new special representative on migration, Patrick Stefanini. He will work closely with our new role of Border Security Commander so that we have the closest, strongest, deepest engagement and interaction.

It is worth reflecting on that, because we are not going to solve the problem of small boat crossings on our own. We have to repair the damage done by the previous Conservative Government to our relationships with our major EU allies and partners. One of the consequences of the botched Conservative Brexit deal is that the UK no longer participates in the EU's Dublin system, which determines which countries should take responsibility for processing an asylum claim where a person has links with more than one country, and

[Tom Hayes]

provides a mechanism to return the person to the responsible country. That is underpinned by a shared database of asylum seekers' fingerprints. It is chaotic that we had a deal that robbed us of the opportunity to take part in that system.

Katie Lam (Weald of Kent) (Con): Will the hon. Gentleman give way?

Tom Hayes: Let me just finish my point. We heard in oral testimony last Thursday how the extraction of the UK from the Dublin system, under those chaotic circumstances, has created a pull factor for asylum seekers seeking to come to this country.

The Chair: Mr Hayes, I am sure that, from now on, you will want to focus closely on the subject of endangering people while at sea.

Tom Hayes: I will take only one intervention.

Katie Lam: I wonder whether the hon. Gentleman would like to share with the Committee whether under the Dublin agreement we were net recipients of migrants or removed more than we received?

Tom Hayes: I thank the hon. Lady for her question, but I have another compelling statistic for her. Implicit in much of what the Conservatives say is the idea that the UK alone is carrying the burden of asylum seeker hosting, but the UK is actually fifth, behind Germany, France, Italy and Spain, in our receipt of the number of asylum seekers in the year ending September. The point I am making is that actually, contrary to much of the rhetoric that we hear in the Chamber and may be hearing in this debate that the United Kingdom is somehow on its own, shouldering all the responsibility for providing a safe place to asylum seekers, we are not. That is worth mentioning, because as a country we are trying to repair our relationships—

The Chair: Order. That has been mentioned, so clause 18 would now sensibly be the focus of your words.

12 noon

Tom Hayes: Thank you for your patience, Mr Stuart. I will progress to my more substantive points.

I welcome the introduction of the new offence of endangering another life during perilous sea crossings to the UK, because we know that life is being endangered. At least 78 people died in the channel last year, and a total of 327 have died on the channel route since 2014. With your patience, Mr Stuart, I will talk about a particular case study.

We know that some of the lives that were cut short were incredibly young. A year and three days ago, a seven-year-old girl boarded a small boat in northern France with her three siblings, father and pregnant mother. The family joined six other children on that small boat, all of them seeking to cross the channel to reach the UK. Four other adults completed the complement on the boat. To describe that boat as small is a joke. It was later described as very small, no bigger than the kind a fisherman might use. It was too small for the number on board, which reinforces the point that I made to the hon. Member for Stockton West: that we are seeing the average number of people per boat rising, which accounts in part for the larger number of people trying to cross the channel to the UK.

The little girl I just talked about was pulled out of the water by rescuers. There were efforts to save her, but they failed. She could not be resuscitated. Aged seven, that child suffered a heart attack and she stopped breathing. Her family died. The six other children on the boat died. The four other adults on the boat died.

Later that day—3 March 2024—another boat crossing got into trouble. Thankfully, the 47 lives on that boat were saved. The night before, on 2 March 2024, another boat got into trouble when it deflated because it was not seaworthy. Again, thankfully, 20 lives were saved. But 327 lives have been lost on the channel route.

We know the facts of life in these flimsy boats. We know that every small boat is crowded with more and more people. We know that gangs are set on making as much money as possible, no matter the risk to life. We know that women and children are forced into the middle of ever smaller boats, so that when those boats fold and sink, as they do, it is they who are the first to be drowned or crushed. We know that the fuel is in containers that are so flimsy that they leak, and we know that when it mixes with seawater, saltwater, it inflicts the most horrific burns on the most vulnerable people.

We know another fact of life on these boats: the engines are among the weakest and the lifejackets are fake, do nothing and keep nobody afloat. And so I have to ask: why would we oppose the introduction of this new offence? It will ensure that anyone involved in physical aggression, intimidation or coercive behaviour will face prosecution and a sentence of up to five years.

My right hon. Friend the Home Secretary has been clear that this offence sends

"a clear message that we will take action against those who are complicit in loss of life or risk to life at sea."—[*Official Report*, 10 February 2025; Vol. 762, c. 63.]

To hear that from a Home Secretary is really important for those criminal gangs that are contemplating criminality. This is about going after those who further jeopardise the safety and lives of others during crossings and who are actively preventing offers of rescue. It is not about, as some have said, criminalising vulnerable people and dangerous crossings. Indeed, the Home Office has already said publicly that the Crown Prosecution Service always considers whether it is in the public interest to prosecute individuals. This is about protecting children like the seven-year-old whose life was ended a year and three days ago.

I want to dwell on the point about child protection, because it is so relevant to the question of sea crossings and whether we have this offence to try to limit the loss of life. We heard in oral testimony from the Children's Commissioner for England about the horrifying crossings that are taking place, but we also heard that the Conservatives had forced vulnerable children into horrifying situations when they arrived here in Britain. The commissioner stated:

"Children were languishing without proper safeguarding in inappropriate places."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 21, Q21.]

The Children's Commissioner had to persistently pursue, from a Home Office that hindered her from doing her job, data on

"children who had been victims of attempted organ harvesting, rape and various other things".—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 25, Q26.]

As she says on children who are missing:

"We still do not know where many of those children are…that is not good enough."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 25, Q26.]

I say that because we have a massive child protection issue on our sea. We have a massive child protection issue in the United Kingdom. We need the Bill to make sure that children are safe.

Kenneth Stevenson (Airdrie and Shotts) (Lab): It is a pleasure to serve under your chairmanship, Mr Stuart. These steps have been taken following discussions with law enforcement to be as thorough as possible in our attempts to smash the criminal gangs and disrupt an organised activity at the very source, particularly in relation to endangering another during a sea crossing, but also when it comes to supplying and handling articles for immigration crime. We must allow enforcement every opportunity to identify the causes of such crime and use the findings of any investigation to deter further crossings. If he allows me a little bit of leeway, I will refer to the hon. Member for Perth and Kinross-shire, who spoke about piloting boats.

The Chair: Order. Mr Stevenson, interventions must be short.

Tom Hayes: I thank my hon. Friend for his point; I agree with him.

I want to continue to dwell on the question of children's social care. It is this Government who have been backing children's social care to look after unaccompanied children—something so important in the eyes of the Children's Commissioner. It is we who are seeking to protect children when they make their desperate crossings and when they are here in the UK. It is no surprise that this Government is doing the same in other areas, such as the Children's Wellbeing and Schools Bill in this parliamentary Session, which establishes child registers to track children not at school, strengthens multi-agency safeguarding arrangements and assigns a unique identifier for each child. I say that because children's protection is absolutely critical.

If the Conservative party, in tabling its amendment, were serious about protecting endangered life and tackling the criminal gangs that threaten children's safety and undermine our border security, why did it do so little during its time in office and why did it not vote for the Bill? It proposed an amendment with the express intention of killing the Bill—as we saw in the Chamber, its Whips were begging Reform MPs to back the amendment that would have killed it off. I saw that with my own eyes.

This Government have increased deportations, returns and removals, which are at the highest rate for six years. We are cutting the cost of the asylum system. I beg the Conservative party and its allies in Reform to get serious about protecting our borders and protecting children and to stop blocking progress.

Becky Gittins (Clwyd East) (Lab): I have some comments on the amendments. I will start with amendment 5, tabled by the hon. Member for Perth and Kinross-shire. I have watched the first episode of "The Chief", which I enjoyed and gave me some insights into the outlook—perhaps even the ambitions—of the hon. Gentleman, which were very much to my liking. Although I have enjoyed lots of the contributions you have made with such huge passion, and indeed compassion for the people you refer to, my concern is about the unintended consequences of your amendment.

The Chair: Order. Please use "he".

Becky Gittins: Sorry, Mr Stuart. I am concerned that the hon. Gentleman's proposal to exclude asylum seekers from prosecution opens up a situation in which someone who has come here as an asylum seeker, and then seeks to engage in illegal activity to assist more illegal channel crossings, would be exempt from prosecution. That would undermine a lot of what many of us are trying to do. My concern is not with the intention of the amendment, which is incredibly clear, but its application, which would go against a lot of the things we are aiming to achieve.

When he moved his amendment 17, the hon. Member for Stockton West did not give a definition of an unseaworthy vessel. This is potentially another area where, despite the rhetoric—which I understand to be about appearing tougher on gangs and people who attempt to make and to assist illegal crossings—the Opposition may actually have introduced an amendment to dilute the Bill.

The amendment ties criminality to the seaworthiness of a vessel. Members on both sides of the Committee have talked about the ability of these gangs: they are fast-paced and cunning, and they move with the times. The Committee heard from witnesses that the gangs regularly change tack to keep up with and get around legislation. That is why the measures we are taking are needed. There is no legal definition of a seaworthy vessel, only that, "A seaworthy vessel is a type of boat or ship that is strong enough to handle the normal stresses of being on the water, such as waves and wind. It is also capable of carrying cargo or passengers safely." It is about not only the use of the ship, but the conditions.

Amendment 17 proposes a reasonableness test for a vessel to be deemed unseaworthy. That could include things such as having safety equipment onboard, or having qualified crew—although we have perceptions about who the people smugglers are, it is reasonable to think that some of them could have a background on the sea, as fishermen or as people who have transported cargo, so their boats could potentially have safety equipment and a qualified crew onboard. Some of the things that could be used to deem a ship seaworthy include how many crew members there are on board, which—as we have discussed in this sitting—varies, as do the provisions on the boat, such as food, water and safety equipment, and the weather and sea conditions on the day of travel.

I would welcome clarification from the hon. Member on his particular definition of seaworthiness. I understand the narrative of trying to appear tough on this issue, my grave concern and opposition to the amendment comes from the fact that it would dilute the opportunity to be tough on those criminal gangs.

Chris Murray: It is a pleasure to serve under your chairmanship, Mr Stuart. I will make a couple of points about the amendments to the clause, and the clause overall.

I have always been frustrated that people from both left and right make the same mistake on immigration policy—we forget that immigrants and asylum seekers are people. That means that, just like any group of people, they vary: some are entirely innocent and exploited, and some seek to exploit others and are criminals. We need to make the distinction between those groups.

Amendment 5, tabled by the hon. Member for Perth and Kinross-shire, makes some important points, and my hon. Friend the Member for Clwyd East is right about the passion and compassion that drive the amendment. I absolutely recognise, support and understand that passion and compassion, but we must be clear-eyed about the reality of what is happening in the channel.

Yes, people are in great danger, and they are the most exploited, most vulnerable people, but they are not there by accident. They are not panicking because they have stumbled by accident into the boat. There is a large, extremely organised, extremely well-financed criminal enterprise putting them in that position and it does not care one bit whether they live or die. We need to be able to draw a distinction between the vulnerable people who are in that situation and the people who are putting them there.

Pete Wishart: The hon. Gentleman is absolutely right that we have to make that distinction between those who have organised, orchestrated and profited from such activities and those at the sharp end of it: the asylum seekers and immigrants themselves. We need to be laser-focused on the gangs, the people who put together and design this vile trade, not on the ordinary asylum seekers, whom these criminalisation clauses exclusively focus on.

Chris Murray: I thank the hon. Gentleman for his intervention, but I am afraid I completely disagree with him on what this Bill is doing. Being an asylum seeker is a self-declaration. It is anticipatory. Someone just declares themselves as one; the system later ascertains whether that is correct and whether they are a refugee. He mentioned earlier that the refugee convention does not penalise people for the mechanism by which they enter; he is quite correct, but that is not a blanket immunity from any criminal act committed in the process.

12.15 pm

The hon. Gentleman talked about making a distinction. The Bill does not say, "Everybody, regardless of any other extenuating factor, will be found guilty of this offence." We heard from the Crown Prosecution Service that guidance will be given about the evidential test and the public interest threshold. There will then be court proceedings, which can make that distinction. This clause is not a blanket catch-all, nor is it about criminalising everybody—but, equally, it cannot be about criminalising nobody, which would be the effect of this amendment. People are doing these things.

It is important to have this legislation on the statute book, because we should not be prosecuting the people who do this to the most vulnerable people and put them in this danger with immigration offences, grandfathering an offence into legislation from the 1970s. This is a new phenomenon that has picked up in the last couple of years.

In my work before Parliament, I worked with the victims of child trafficking and heard the testimonies of those who entered the UK in the back of lorries or, worse, on those kinds of boats. It takes years for those children to overcome their trauma and even to express how dangerous the situation was that they were in. It damages them forever. We have to target the people who do that to them with no compunction at all.

I return to my original point: we need to be able to draw a distinction between the exploited and the exploiters. The amendment tabled by the hon. Member for Stockton West and the Conservatives does not draw that distinction. It would categorise everyone as guilty, an exploiter and someone who should go to prison for 14 years. The amendment from the SNP does the opposite. It would exonerate everyone. If they declared themselves an asylum seeker, none of the legislation would apply to them, regardless of any other crimes that they had committed on the way. I do not think that is right. We can and we must draw that distinction.

I have two final points. If someone in any other walk of life—a building contractor, a lawyer, an event organiser—did something negligent that led to the death of another person, I would expect them to be held fully responsible for their culpability in that. That should also apply here. We must ensure that that also applies in these boats. The people who put the people in these boats must be held responsible.

The hon. Member for Weald of Kent referred to the Dublin system. It is quite correct that we heard that the Dublin system was encouraging people to come here. It is quite correct that the UK was a net recipient of asylum seekers under the Dublin convention. However, if I were a Conservative, I would be very wary of making that argument, because it points to the fact that, even when the last Government had the ability to return people to safe countries that they had gone through, they failed to do that or to use the system in the way that they now claim we should be able to.

The amendments from both sides wreck this clause, which is really important for prosecuting those people who put people's lives in danger.

Sarah Bool (South Northamptonshire) (Con): It is a pleasure to serve under your chairmanship, Mr Stuart. If, as I imagine, the wording of clause 18 will not be changed further, I just wanted to draw attention to the concerns that we will be criminalising those making the crossings and not those who organise the passage. I point to written evidence from the Law Society, which raised particular concerns that are important to consider:

"The Law Society is concerned that parents or guardians could be prosecuted for taking their children on these journeys. The human rights assessment produced by the Government for this Bill states that parents who bring their children on these types of journeys will be excluded from prosecution under this offence in almost all circumstances, but the phrasing"—

this is the most important point—

"does not rule out prosecution in all circumstances. There is a concern that this could result in families being split up."

The Law Society asks that the Government should either

"clarify if this provision is intended to apply to asylum seekers in some circumstances, or amend it to ensure it does not in practice."

I ask the Minister to address that point.

Jo White (Bassetlaw) (Lab): It is a pleasure to serve under your chairmanship, Mr Stuart. I want to reinforce the points made by my hon. Friends the Members for Dagenham and Rainham and for Clwyd East regarding amendment 17, tabled by the hon. Member for Stockton West. I firmly believe that the amendment actually serves to dilute the legislation.

The hon. Member does not consider the fact that many people are coerced into boats in the belief that they will be safe, because there will be lifejackets provided. However, many times those lifejackets do not meet EU or British standards, or children's lifejackets are provided for every person on the boat—or, when people get on the boat, there are not enough lifejackets. The gangs who are using that to coerce people on to the boats should be prosecuted for that simple act.

The Minister for Border Security and Asylum (Dame Angela Eagle): It has been a while since the sitting began, and it is easy to overlook that I have not been up on my feet so far. We have had an interesting debate. The amendments before us range from, at one end, the Opposition, whose amendments seek to criminalise everyone who gets in a small boat and presumably cart them directly to prison, through to the other end of the argument, represented with his usual passion by the hon. Member for Perth and Kinross-shire, who feels that, if someone is an asylum seeker, they should be exempt from being judged at all on the behaviour that happens on the boat.

I will deal with some of those points in turn, but I also want to compliment my colleagues who have made their own comments and some very important points in this debate. It is important, as my hon. Friend the Member for Edinburgh East and Musselburgh said, that we are clear-eyed about what is happening in the channel. We can be romantic about it in many ways, as the hon. Member for Perth and Kinross-shire often appear to be, or we can regard all those who come over as criminals and a threat, but the truth is somewhere in between.

My hon. Friend the Member for Bournemouth East made a moving speech about the realities of what can happen in these circumstances; it is easy to forget, when we are sat in a nice warm Committee Room—although it is not always warm, facing as it does on to the river. Imagine ending up in the water in the channel, Mr Stuart; you can last only so long. You could easily have a heart attack in that cold water and not be resuscitated. Clearly, if you are a child, or vulnerable in any other way, then that is likely to happen—and it will happen to you first.

My hon. Friends the Members for Bassetlaw, for Clwyd East and for Dover and Deal made important points about the realities too. I will come on to what the Government are trying to do with this offence and why it is in the Bill, but I will deal with the amendments first. I hope I will be able to answer some of the questions that have been asked during this important debate—*[Interruption.]* I also hope that my voice is going to last out.

Amendment 15 focuses on the length of the sentence attached to clause 18 and seeks to increase the sentence from six to 14 years where an irregular entrant arrival has caused or created a risk of serious personal injury or death to others during a sea crossing to the UK. Clause 18 introduces a new criminal offence that is to be inserted into section 24 of the Immigration Act 1971. The current sentence for the offence of arriving in breach of a deportation order under section 24(A1) of the Immigration Act is five years.

Because clause 18 will be inserted into section 24 of the Act, the intention of the clause is to ensure that, given the egregious and serious natures of the acts committed under the new offence, the maximum sentencing is increased, albeit remaining in line with the existing sentencing framework in section 24 of the Act. The issues about the length of sentence are all about keeping sentencing in that section of the Immigration Act coherent. Grabbing extra, lengthier sentences out of the air to insert them into the Act can create inconsistency and mess up the structures of sentencing involved in the Act, making it less coherent than it should be. The sentence of five years was reached after discussions with partners about all the sentences and offences in this particular area, and it rightly reflects that coherence.

An increased sentence of six years is considered to be appropriate for the endangerment offence. It furthers the deterrence aim of the policy, but is not so severe as to deter prosecutors from bringing a prosecution in the first instance. That is another area in which the rhetoric of even longer sentences deters prosecutors from bringing charges at all. We have seen that with the facilitation offences, where the introduction of a life sentence has led to fewer prosecutions being pursued; prosecutors think that for a sentence of that length, more obvious evidence has to be accrued, so they charge fewer people. An increased sentence can sometimes have a perverse effect on the system. We think that the sentence in the Bill is in keeping with the Immigration Act and is about right.

Mr Will Forster (Woking) (LD): I am pleased that the Minister talked about the length of the sentence, which we have not talked about very much in the debate so far. Fourteen years is the maximum sentence for placing explosives with intent to cause bodily injury, and for such other offences as causing death by dangerous driving. To me, 14 years is more applicable in those cases. Does she agree? I do not understand the rationale for 14 years.

Dame Angela Eagle: Yes, and it is not for me to get into the head of the hon. Member for Stockton West. Perhaps he will talk to us about why he picked that particular number. I agree with the hon. Member for—is it Worthing? *[Interruption.]* The hon. Member for Woking—I knew it began with a W, and my own constituency begins with a W, so we are there or thereabouts in the dictionary.

Similarly, amendment 16 seeks to increase the sentence from five years to 14 years where an irregular migrant or arrival has caused or created a risk of serious personal injury or death to others during a sea crossing to the UK and is entering without the requisite leave to enter, entry clearance or electronic travel authorisation. As with the approach taken to those who arrive in breach of a deportation order, and as discussed in relation to amendment 15, clause 18 will provide an increased sentence compared with the offences under section 24(B1), (D1) and (E1) of the Immigration Act.

12.30 pm

Under section 24, the maximum sentence for knowingly entering without requisite leave to enter, entry clearance or electronic travel authorisation is four years. Under clause 18, the maximum sentence for journeys involving an endangering act in relation to the same section 24 offences is five years. We think that is a proportionate increase compared with the other section 24 offences. The comparison here is not section 25 of the 1971 Act, under which there was originally a maximum sentence of 14 years that the last Government increased to life imprisonment. Five years is considered appropriate for acts that endanger others during a sea crossing, so I call on the shadow Minister not to press amendment 16.

Amendment 17 would fundamentally alter the focus of clause 18. Where clause 18 focuses on acts that have caused or created a risk of serious injury or death to others during a journey by water to the UK, the amendment would criminalise any person for their decision to board an unseaworthy vessel. That would be a very wide-ranging offence. Everyone wants these crossings to stop—my goodness, anyone listening to what we have heard today and who knows what happens in the channel wants these journeys to stop—but the amendment would criminalise everybody onboard a vessel by virtue of its condition.

I have seen some of these vessels, none of which could reasonably be seen to be seaworthy. If the Opposition Members had seen some of them, perhaps they would not think clause 18 is muddying the waters. None of these vessels is seaworthy. I would not want to cross a puddle in them, let alone the channel, which is one of the world's busiest shipping lanes.

With all due respect to the hon. Member for Stockton West, it is nonsense to suggest that the answer to stopping these crossings, an objective we all share, is as simple as criminalising everyone who arrives in the UK in this way. Imagine the real-world implications. Despite the Rwanda scheme, 84,000 people crossed the channel in small boats. Over 150,000 crossed the channel when the Conservative party was in office. Are we meant to put all those people in jail? Is the hon. Member seriously saying that would deal with this difficult and complex issue? It sounds even more absurd than thinking the Rwanda scheme would actually work. His amendment is unworkable, and I hope he will withdraw it.

Amendment 5 would exclude asylum seekers from the scope of these offences. Again, I understand why the hon. Member for Perth and Kinross-shire tabled the amendment. In his own analysis, everybody aboard these boats is an innocent asylum seeker. My hon. Friend the Member for Edinburgh East and Musselburgh put it best: some of the people who come across on these boats are innocent asylum seekers, but others are certainly not. We do not have trained people in Dover looking for coercive control because we do not think that some of those coming across are wholly innocent asylum seekers.

Pete Wishart: I am sorry to see that the Minister is still bravely struggling with a cold—the Committee has noticed. A variety of offences are available to the courts to make sure that anybody who endangers people at sea can be prosecuted. There is illegal arrival, there is facilitating the illegal entry of others, and there is what Ibrahima Bah was convicted of—gross negligence manslaughter. These offences are all currently available to the prosecutorial authorities. I do not know why the Minister feels she needs this new offence. It can only be because she has a particular target in mind against whom she wants to apply these rules. Can she confirm that?

Dame Angela Eagle: I will try to give the hon. Gentleman some insight. I was going to come on to this when addressing the clause itself, but it is in the Bill because we have perceived a change in behaviour in some areas.

There has been an increase in physical aggression towards other people, including migrants and third parties. There is a lot more violence on the beaches against French police. There is intimidating and controlling behaviour on the boats. People are preventing others from disembarking or calling for help when the boat gets into difficulty. There are physical acts that result in harm being caused to another person either while boarding a boat or while on a boat. People are being pushed off boats, including in shallow French territorial waters. The pilots sometimes decide to continue on to the UK even when there have been fatalities or serious harm on the boat. We are now seeing a range of behaviours that clause 18 will allow us to address.

I will address amendment 5, but the view of the hon. Member for Perth and Kinross-shire is that no asylum seeker should be charged with this new criminal offence, which would render clause 18 unworkable and pointless, as 95% of people who come across on small boats claim asylum. How one behaved on the boat across will be in the purview of clause 18, whether it is dangling children over the side or forcing women and children to sit in the middle—often the middle of the boats come free and collapse, so the women and children are the first to die. Where women and children are forced to sit in the middle, they sometimes arrive in the UK with horrific burns because of the combination of fuel and seawater, as my hon. Friend the Member for Bournemouth East said.

I simply do not agree with the hon. Member for Perth and Kinross-shire that, just because someone will claim asylum when they get to the UK, none of their behaviour on the way over should have any bearing on what happens when they get here. Clause 18, which creates a new criminal offence under section 24 of the Immigration Act, will not criminalise everyone who makes these crossings. It would be pointless and completely unworkable if we sought to do that, as the Opposition amendments do. It is about addressing, discouraging and deterring the acts that cause or create a risk of serious injury or death to others, which we are now seeing from individuals travelling to the UK by small boats.

There have to be consequences for anyone who further jeopardises the safety and lives of others during these dangerous crossings. There are those who insist on continuing their journey when assistance is at hand, who refuse assistance, and often, when there have been fatalities, try to prevent others from being rescued. Clause 18 addresses specific acts that create or cause a risk of serious injury or death to others during a journey. We heard in oral evidence how these journeys are being made more dangerous by such acts, and clause 18 is a response to the increasing propensity of this kind of behaviour.

There have been shocking and tragic cases of women and children being forced and intimidated into life-threatening positions during journeys that are already dangerous enough, which is exactly the type of offending that clause 18 aims to target. The approach cannot simply be to say that whatever happens on the boat, stays on the boat. The new offence is another tool designed to curb the endangerment of life. It sits alongside other activity against gangs that intentionally place people in danger by selling these crossings as a viable route to the UK. This Government take fatalities and injuries at sea extremely seriously, and we are going further than ever to try to bring an end to them.

Pete Wishart: I thank the Minister for her full response to the amendments before the Committee. I totally agree with her on amendment 17, and I hope the Committee rejects it. It is a ridiculous and unworkable proposition that everybody who comes to our shores should be criminalised almost immediately upon arrival.

A couple of things have been said in this debate that I want to challenge and take head on, including the idea that everything is black and white, that people are either the exploited or the exploiters. Everybody accepts that there is a grey area. I think every member of this Committee believes that those who behave in a reprehensible, appalling and awful way, whether on the small boats or in getting people on to the small boats, should rightly face the full force of the law.

The Minister is right to highlight all those examples of the dangerous behaviour that happens during some of these journeys. None of us would want people to get away with that behaviour, but the Bill does not refer to such activity, and there is nothing in the guidance or the explanatory notes. Nothing in the Bill specifies this type of behaviour. As the Bill progresses, the Minister will have to make sure it mentions such behaviour.

The other challenge with the type of activity the Minister describes is how to get the evidence. This activity is happening in the most chaotic circumstances, on small boats coming across the channel. We know these things are reported, and we know that people are arrested and face the full force of the law, but the Minister still has to convince the Committee that a new offence is needed, and that certain categories of migrant will not be caught up.

Chris Murray: Does the hon. Gentleman accept that, if his amendment 5 were accepted, someone could orchestrate a boat crossing the channel, throw a child off—which this measure is trying to prevent—and then, when they arrive on the shores of the UK, just say, "I am an asylum seeker"? That would be an obstacle to any prosecution.

The only way we could get over that obstacle—even if the person were French—would be for them to go through the entire asylum process. They would be placed in a hotel in one of our constituencies and, given the huge backlog we have, it would be almost two years before we are able to prosecute them.

Pete Wishart: It must be how I am presenting this but, again, I am not being understood. I am sorry that I have not explained the intention clearly enough, but I have no intention of that scenario happening. *[Interruption.]* Can I say to the hon. Gentleman—and to the Whip, the hon. Member for Inverclyde and Renfrewshire West, who is trying to intervene from a sedentary position—that existing offences are in place to deal with the activity being described. I have cited the example of Ibrahima Bah, who was done for gross negligence manslaughter. Where that happens, of course people should face the full force of the law. And that happens, because we have existing laws in place.

I listened very carefully to the Minister's description of the new types of activity that she feels clause 18 is necessary to address, but those activities have to be specified and defined. If she moved new clauses to address such activity, I am sure she would get a fair hearing—she would get a fair hearing from me—but, because clause 18 is so broad, other behaviour and activity will inadvertently be drawn into these offences. People who are possibly acting in self-protection, or who are trying to save people but inadvertently put others at risk, will be caught by this clause.

We need to apply common sense to what the Minister is trying to do, and we need to make sure common sense is reflected in the Bill because, at this stage, it is not.

Becky Gittins: I just want to tease out what the hon. Gentleman has said. Does he accept that, if this amendment passed, gang members facilitating crossings on small boats would escape prosecution?

Pete Wishart: Absolutely not. Again, I must be having great difficulty getting through, and I accept that that is my responsibility, but that is not what is intended in the least. A variety of laws deal with the activity that the Minister mentioned. We know that because 244 people were charged in the course of 2023, and since the Labour Government came to power, something like 86 people have been charged with offences. People are being charged and prosecuted for serious offences.

The Minister has identified new dangerous activity, and she is right to do so, but if we want legislation to deal with it, bring that legislation before the House. Do not bring in this broad-sweep legislation, under which natural, normal activity that may be designed to help and protect people could be caught up. The difficulty with this legislation is that it inadvertently draws in people who do not deserve to be. I know it is about targeting the pilots in the boats, but there has to be some recognition of what forces and coerces people into piloting the boats. There needs to be an understanding of their situation and why they are doing that, but the clause fails to take account of any of that.

12.45 pm

I will not press my amendment to a vote, but I will say one more thing. I am making this point as Pete Wishart of the Scottish National party. Nearly all the evidence I have presented to the Committee on this and previous amendments has been supplied by the organisations that the hon. Member for Stockton West refers to, all of which work with asylum seekers in the UK, promoting their best interests and serving them. They have given me that material because they are so concerned about the broad nature of so many of these criminalising clauses, and they want us to look at them. I tabled

amendment 5 just to raise the issue, and I hope that as we go through the Bill, we will have an opportunity for debate.

Chris Murray: I take on board the hon. Gentleman's point, and I can assure him that no one has higher respect than I do for the organisations that have supplied such evidence. I have been in conversations with them myself. The issue at hand here, however—I know this from having worked in the sector—is that they are not set up to stop the gangs or take through criminal prosecutions. That is not their objective. Their job is purely, and properly, to protect migrants. They will lean towards a broad definition, and that is why I think he has inadvertently fallen into a trap. In excluding everyone from the provisions, we avoid the traffickers, but it is not the job of those organisations to target them.

Pete Wishart: The hon. Gentleman is spot on. The job of those organisations is to be concerned for the welfare and conditions of people who come to our shores, and to ensure that they are supported on their journey through the asylum process. The organisations have identified that the Bill does little to target the gangs that the hon. Gentleman is referring to; in fact, they do little at all. They are all about ordinary asylum seekers. The new criminalisation clauses that we have debated over the past couple of days are all exclusively devoted to the activity of asylum seekers coming here, and none more so than this clause.

I hope that, as the Bill proceeds through its remaining stages—particularly when it goes through the other place, although that greatly concerns me for a number of reasons—we will be able to improve it, and get to a place where it reflects what the Minister said in her fine contribution.

Sarah Bool: I did not hear from the Minister a response on the Law Society's concern about parents and guardians being criminalised, and I wonder whether I could hear some thoughts on that.

Dame Angela Eagle: In general, it is not expected that parents will be criminalised, but there is not a total ban on that. It will depend on what has happened and what the circumstances were. That will be looked at on a case-by-case basis. It is difficult to be more explicit about that, given that the nature of the offence represents a stricter law that is meant to deter people from making small boat crossings. It is a signal to smugglers and passengers that fatalities and injuries at sea are taken extremely seriously, so there may well be consequences for particular unacceptable behaviour of the sort that I have talked about. I would not want there to be an absolute exclusion, but I would not expect a large cohort of people to fall within the purview of the new offences.

Matt Vickers: I thank Members for their considered contributions. Effective international partnerships can be useful, but I would not want to deny anyone the right to scrutinise a partner on Twitter, particularly one to whom we pay so much money. The previous Government were right to toughen up on sentences for the worst offences. They were right to restrict prisoner release during the pandemic. That put pressure on the prison system, and that that is why the previous Government were also right to undertake the biggest prison building programme since the Victorian era. I realise that the Labour party did not agree, but it was right that the previous Government used the Nationality and Borders Act to increase the penalty for people smugglers to a life sentence.

Tom Hayes: I was going to allow that statement to go by, because lunch is near and I am quite hungry, but I am hungrier still for the truth. Does the hon. Gentleman not accept the validity of independent assessments of our prison system—the system that this Labour Government inherited—as near to collapse? For him to claim otherwise is farcical, and I hope he will withdraw that.

Matt Vickers: I repeat exactly what I said: the previous Government were right to toughen up those sentences and make those who are guilty of some of the worst offences stay longer in prison. They were right not to release people during the pandemic, and therefore they were right to have the biggest prison-building programme since the Victorian era; that is a fact. It was also right that the previous Government used the Nationality and Borders Act to create life sentences for people smugglers. The vile criminals who profit from the peril of others deserve nothing less. That is why it is right to increase the sentence for this offence, as set out in amendments 15 and 16, to deter people from engaging in this awful, vile and inhumane trade. I will press amendments 17, 15 and 16 to a vote—

Tom Hayes: Just before the hon. Gentleman does so, there was a question about why the proposed sentence length of 14 years was hit on. I wonder whether he might wish to illuminate us.

Matt Vickers: As I said in my opening remarks, that has to be a deterrent. This is a damp squib Bill. If people come to this country illegally—if they break in—there should be real consequences. If they put other people's lives at risk, there should be real consequences. I think we have proposed the right sentence, and Committee Members can now have their say on it.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 13.

Division No. 5]

AYES

Bool, Sarah	Vickers, Matt
Lam, Katie	

NOES

Botterill, Jade	Murray, Chris
Eagle, Dame Angela	Murray, Susan
Forster, Mr Will	Stevenson, Kenneth
Gittins, Becky	Tapp, Mike
Hayes, Tom	White, Jo
McCluskey, Martin	Wishart, Pete
Mullane, Margaret	

Question accordingly negatived.

Amendment proposed: 15, in clause 18, page 12, line 5, leave out "six" and insert "fourteen".—*(Matt Vickers.)*

This amendment would increase the maximum penalty for the offence of endangering lives at sea to fourteen years.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 13.

Division No. 6]

AYES

Bool, Sarah
Lam, Katie
Vickers, Matt

NOES

Botterill, Jade
Eagle, Dame Angela
Forster, Mr Will
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Mullane, Margaret
Murray, Chris
Murray, Susan
Stevenson, Kenneth
Tapp, Mike
White, Jo
Wishart, Pete

Question accordingly negatived.

Amendment proposed: 16, in clause 18, page 12, line 9, leave out "five" and insert "fourteen".*—(Matt Vickers.)*

This amendment would increase the maximum penalty for the offence of endangering lives at sea to fourteen years.

Question put, That the amendment be made.

The Committee divided: Ayes 3, Noes 13.

Division No. 7]

AYES

Bool, Sarah
Lam, Katie
Vickers, Matt

NOES

Botterill, Jade
Eagle, Dame Angela
Forster, Mr Will
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Mullane, Margaret
Murray, Chris
Murray, Susan
Stevenson, Kenneth
Tapp, Mike
White, Jo
Wishart, Pete

Question accordingly negatived.

Clause 18 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Martin McCluskey.)*

12.56 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Sixth Sitting

Thursday 6 March 2025

(Afternoon)

CONTENTS

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

not later than

Monday 10 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, Dr Andrew Murrison, † Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 6 March 2025

(Afternoon)

[Graham Stuart *in the Chair*]

Border Security, Asylum and Immigration Bill

2 pm

The Chair: Will everyone please ensure that all electronic devices are turned off or switched to silent mode? We now continue line-by-line consideration of the Bill. The grouping and selection list for today's sittings is available in the room and on the parliamentary website. I remind Members about the rules on declarations of interests as set out in the code of conduct.

Clause 19

Meaning of key expressions

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

The Chair: With this it will be convenient to consider clauses 20 and 26 stand part.

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure to welcome you back to the Chair, Mr Stuart, for what will be a marathon session. Clause 19 provides definitions for the key expressions used in relation to the electronic devices measure. These definitions mean that the measure will focus the powers only on irregular entrants who are in possession of an electronic device that authorised officers have reasonable groups to suspect contains information relating to facilitation offences under the Immigration Act 1971.

Furthermore, clause 19 defines "authorised officer" as:

"an immigration officer, or…a constable of a police force maintained by a local policing body".

The aim of the powers is to gain access to information held on such devices on the organised crime groups who help facilitate or plan migrants' dangerous journey and, as a result, to save lives from being lost. The clause is integral in defining the key expressions relating to how the powers can be used.

Clause 20 enables immigration officers within the United Kingdom of Great Britain and Northern Ireland and police constables in England and Wales only to search an irregular entrant if they have reasonable grounds to suspect that they are in possession of an electronic device that contains information linked to a facilitation offence. That power enables the search of a person, property, premises, vehicle or container. That is to ensure that, in any circumstances in which it is necessary to obtain a device, the authorised officer can use the powers to conduct a search. The clause contains safeguards to ensure the powers are used appropriately. Clause 20 provides clarity over how searches must be conducted in accordance with these powers.

Finally, clause 26 defines any additional expressions referenced throughout clauses 19 to 23. That will ensure that it is clear to users of the powers what key expressions mean. It is important to be transparent about what is meant and to ensure that the public and authorised officers fully understand these expressions.

Matt Vickers (Stockton West) (Con): We support clauses 19 to 26, but only in so far as they endorse powers that we think already exist to seize, extract and retain data from mobile devices. Clause 19 provides definitions of key terms in sections 20 and 21 relating to the provisions of those clauses to allow authorised officers to search for, seize and retain relevant articles. The definition of a "relevant article" is

"any thing which appears to an authorised officer to be a thing on which information that relates, or may relate, to the commission of an offence under section 25 or 25A of the Immigration Act 1971 is, or may be, stored in electronic form."

Will the Minister provide some concrete examples of what the Government think such information might consist of?

Clause 20 gives relevant officers—either an immigration officer or a police constable—powers to search a relevant person, which is someone who has entered the UK without leave or in breach of a deportation order. Will the Minister explain why subsection (2) does not allow for any more than one search after the person in question has arrived in the UK? The clause gives officers the power to search for "relevant articles", which are described in clause 19 as

"any thing which appears to an authorised officer to be a thing on which information that relates, or may relate, to the commission (whether in the past or future) of an offence under section 25 or 25A of the Immigration Act 1971".

That is quite a narrow definition, as it covers just electronic devices. Will the Minister reassure the Committee that the necessary powers to search for non-electronic items exist elsewhere? In practice, we suspect the power will be used to gather information and evidence to identify smugglers for prosecution. We fully support that, but most mobile devices are destroyed during or prior to travelling across the channel. Will the Minister therefore explain whether she expects any of the evidence gathered using the powers in these clauses to be used to support decision making on immigration enforcement?

If the devices are seized, as the former director general of Border Force pointed out in his evidence, they may contain useful information about nationality, identity, age and travel history, and may provide valuable evidence when assessing asylum claims. Will the Minister explain how effective the new powers will be in supporting evidence gathering to remove those with no right to be here? Will information gathered using these powers be available to asylum screening teams? Will that evidence be used in decision making for immigration appeals? These clauses do not have extraterritorial reach, so can the Minister explain to what extent the Government envisage these additional powers will make a meaningful difference to smashing the gangs, when many of the perpetrators are located outside the UK?

Pete Wishart (Perth and Kinross-shire) (SNP): These clauses create invasive new search, seizure and retention powers, along with the powers to access, copy and use information contained within an electronic device. The

new powers can be applied to any person who arrives irregularly and has not yet been granted permission to enter or remain in the UK. They allow an immigration or police officer to fully search a person, including a search of that person's mouth. I expect that the Minister will tell us exactly whether that particular qualification is required for these new powers.

This is not the plot and setting of some future dystopian film: it will be the UK sea border in the course of the next few months. These things will not be done to hardened criminals wandering the streets of the United Kingdom or those associated with violent crime. They are to be done to some of the most abandoned and traumatised people in the world. With these clauses we are starting, measuredly, to go into police state territory. They are essentially a hybrid form of stop-and-search powers, without the due qualifications and reassurances. I do not know if profiling will be a part of this—I will be interested in the Minister's response—but it seems like only one profile will be included in all that, which is that of every asylum seeker. They may all be subject to these new powers.

For these powers to be exercised, there need only be reasonable grounds and suspicion that a relevant article appears to store some electronic information that relates or may relate to the future or past commission of a facilitation offence. That seems excessively broad. Practically any person who arrives irregularly to the UK may be subject to these powers. Any information received from these searches would be used for preventing, detecting, investigating or prosecuting facilitation offences. The property can be retained for as long as considered necessary to assess, examine or copy information for use in proceedings for an offence, before being returned or disposed of.

I trying to think why the Government want these clauses. I know they are going to tell us it is all about helping to disrupt organised crime and making sure they can find particular and specific information on electronic devices, but I think a lot of it has to do with the 2022 High Court ruling decreeing that the Home Office's secret policy of blanket searching, seizing and returning mobile phones from individuals arriving by small boats was unlawful.

Just like the Tories before them, if any particular law that defends and protects people is seen or deemed to be a little bit unnecessary, the Government will just bring in a new one to override it completely, forgetting anything to do with the consequences and implications for people. These new offences clearly compromise a person's right to a private and family life. Given the confidential, legally privileged, sensitive, private and personal nature of the messages, photographs, information, correspondence and data that may be on such mobile devices, we hold that that could only ever be the case. To be fair, the Government respect that and acknowledge it as fact, and the European convention on human rights memorandum suggests that the new powers could be distinguished and that phones will not be seized on a blanket basis when these powers come into force—well, thank goodness for that.

The memorandum says:

"The Home Office will issue non-statutory guidance about the use of the powers and training which will be required for authorised officers exercising those powers."

We will have to see that happen pretty quickly, because we have no idea how any of these powers will be exercised. Again, I am entirely happy to take the Minister at her word on how the new law will be exercised as we go forward. However, there is no such guidance for parliamentary scrutiny during the passage of the Bill, so it remains entirely unclear how the Home Office proposes to use these wide and invasive new powers.

I am distinctly uncomfortable with the new powers, and I am disconcerted about how they may be applied and used. A number of agencies have serious misgivings about the type of individuals who will be subject to these new powers. The Minister has to explain just a little more how these powers will be used and what protections will be put in place, particularly for some of the most traumatised people whom we will be ever deal with in this country.

Jo White (Bassetlaw) (Lab): I very much welcome this element of the Bill on electronic devices. While clause 22 will give officers powers to seize digital devices that are believed to be used for the purpose of people smuggling, clause 23 gives suitably trained and accredited criminal investigators the powers to access the information on mobile devices, phones and laptops that will build the evidence base, history, connections and understanding of the routes of the criminal gangs.

Seizing and extracting data from mobile devices is a powerful tool already used by our security services. There are already established Home Office guidelines on this, and these clauses extend those powers and will help enable intelligence-led profiling of irregular arrivals. That key change will lead to greater opportunities to disrupt the trade of these awful gangs.

Chris Murray (Edinburgh East and Musselburgh) (Lab): I want to make just a couple of points on the seizure of phones. We have to be incredibly realistic about the threat that the country faces and how these things are organised. We have seen people-smuggling networks and trafficking networks developing in complexity and scale. It does not start in France; it goes all the way through European countries—our allies—and then through countries that are very difficult for us to engage with, including some countries that are at war and some that are hostile states.

The evidence from the National Crime Agency is very clear that the networks are organised by phone, and that that is the primary means by which these criminals orchestrate them. We know that they are evolving, so it is really important that we give officials the power to seize those phones not only to understand where these smuggling networks are coming from, which is the only way to intercede and save people in unsafe vessels, but to disrupt those networks later.

We heard a whole set of arguments earlier about the insufficiency of deterrents in stopping sea crossings. Professor Walsh from the Migration Observatory was really clear that the demand is inelastic. No matter how many deterrents we introduce, there will still be some demand rising to meet them. That is why disruption is so important, which we can only happen if we have the ability to seize those phones. There is a really important distinction between targeting the demand and targeting the supply of the ability to cross the channel.

[Chris Murray]

On the point about whether the powers are applied on a blanket basis, they are not. The Home Office is clear that there will be statutory guidance. The people who seize these phones will be subject to the same rules that are already in place on the handling of material seized from any individual, and they need those powers. The point about family life and private life is absolutely fair, and it applies whenever someone's phone is stolen, which is a wider debate that we have in society. The truth is, there is no capacity to only seize part of someone's phone. We cannot seize only some data and not detect, for example, private text messages or family photographs. It is proper that the Home Office officials who seize such data are subject to the rules that we have in this country about protecting the data and returning it when it is decided that it is not required, but we cannot separate out different types of data, and we would be throwing the baby out with the bathwater if we did not allow the powers to seize it.

2.15 pm

Dame Angela Eagle: The proposed powers will enable immigration officers and the police to search for, seize, retain and extract information from electronic devices, but only based on two criteria. The first is reasonable grounds to suspect that the person has a relevant electronic device and that it contains information that relates, or may relate, to the commission, whether in the past or future, of an offence under sections 25 or 25A of the Immigration Act 1971—the facilitation offence.

The second criterion is that the person must be an irregular arrival or entrant. Currently, the Illegal Migration Act 2023, which is on the statute book until we get this Bill made into an Act, allows for blanket seizure, and searching for all purposes, of all phones. We are repealing that very wide power and replacing it with this one, which is much more targeted than the IMA one.

The hon. Member for Stockton West hinted that we should use this clause to widen the powers, or allow all the information on the phone to be used for all purposes. That is not what we are suggesting. In fact, part of the reason why the Illegal Migration Act powers of seizure was never operationalised is that building the sheer capacity to take everyone's phones off them and download the contents and analyse what was on all of them defeated the powers that be, and the technical ability to do so has not yet been developed.

It seems to us, from talking to organisations in the police, and the National Crime Agency, who follow these things very closely, that the best and most targeted way to get at some of this information is to have these criteria. There must be reasonable grounds to suspect, and that is not a blanket thing. These are intelligence-led powers, which will lead us potentially to certain individuals, so that we can take a device off them and analyse what is on it.

Experience suggests that what is on such devices can be very revealing. I will not list things here, because I do not want to produce a list of things that people should not leave on their phones that is essentially public, but we all use our telephones and other devices in ways that we all know about, and we probably would be very sobered if we realised how much Apple knows about us, for example, just by looking at its own records. A lot can be gleaned, but there must be reasonable suspicion that the individuals whose devices are taken are involved in facilitation—not just coming over, under section 24, but under section 25, which is facilitation, the more serious offence.

The hon. Member for Stockton West said he thought those powers already existed. In the Illegal Migration Act, yes, but they are completely uncommenced and not put into effect, and are far too blanket to be useful. There is a current power to seize, but that power does not enable immigration officials or police constables to search and seize devices in many circumstances at all. First, a person must be under arrest before that can be done, and we think that, as part of our intelligence-led, counter-terrorism-style powers to defeat organised immigration crime, being able to search a bit ahead, and certainly ahead of an arrest, is a useful power, so that is what these clauses provide for.

The hon. Member for Stockton West asked whether information found on phones could be used for asylum casework. No, we do not think that is appropriate. This focused power allows us to search for information and evidence about organised immigration criminality, not about any other aspect of the person's existence. There are clauses that we will come to later, however, that would enable us to operationalise the information we have, particularly if other crimes come to light as a result of a search.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 20 ordered to stand part of the Bill.

Clause 21

POWERS TO SEIZE AND RETAIN RELEVANT ARTICLES

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

Dame Angela Eagle: Clause 21 provides immigration officers in the United Kingdom of Great Britain and Northern Ireland, and police constables in England and Wales, with the power to seize and retain electronic devices. Clause 21 provides a clear and detailed approach for authorised officers to ensure that the powers are correctly, efficiently and effectively used.

Matt Vickers: Clause 21 gives authorised officers the power to seize any electronic device that has been found in a search under clause 20, or is not found on a search but appears to the officer to be, or to have been, in the possession of a relevant person. How would officers determine whether an article appears to be or to have been in the possession of a relevant person? What is the evidence threshold for that?

My question for the Minister about clause 21 is similar to my one about clause 20. Will the powers be used to gather evidence that can be used in immigration decision making and appeals? The Opposition support the powers in this clause, in so far as they go.

Dame Angela Eagle: I am glad that the hon. Gentleman supports the powers, but I emphasise to him again that clause 21 is very much in the context of the clauses that

we have just agreed. It is a more limited—not a blanket—power. It exists within the parameters that I set out in the previous debate.

I emphasise again that none of the information seized in this context could be used in an asylum case; it is for the purposes of dealing with organised immigration crime. It is not for wider purposes, unless other criminality is found, in which case it becomes available and can be passed on. That will be dealt with in some clauses that are coming up. But these provisions are limited to collecting evidence and intelligence on organised immigration crime from people who have just entered the country illegally.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22

DUTY TO PASS ON ITEMS SEIZED UNDER SECTION 21

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

Dame Angela Eagle: Clause 22 will provide immigration officers using the powers with the duty to pass on electronic devices to other agencies, such as the police. The clause will be used if an electronic device seized contains information about a non-immigration offence—this is the case that I was hinting at earlier. Clause 22 provides the process to be used in these types of cases. We cannot seize an electronic device without that process in place, because we may discover information relating to a criminal offence, such as a counter-terrorism offence or an offence related to indecent and/or obscene material of a child—those kinds of offence. If we discover evidence of such activities on a phone, we must act, and to act we have to have the processes in place to enable items to be forwarded to police or any other agency that needs to take possession of the device for its investigation into the other criminality.

The clause provides for a robust step-by-step process to ensure that immigration officers know what actions to take to forward the device or if the agency to which we wish to forward the device refuses to accept it for an investigation.

Matt Vickers: Clause 22 gives authorised officers the duty to pass on seized items that have been found in a search under clause 21 where there is a reasonable belief that the article or information stored on it has been obtained in consequence of, or is evidence in relation to, an offence other than the relevant immigration offence. The immigration officer is under a duty to notify someone who has the functions to investigate the relevant offence. What might be the reasons why a person notified under the clause might not accept the article, and what would be an acceptable reason? If a relevant person refuses to accept the article, what are the next steps? We support the powers in the clause so far as they go.

Dame Angela Eagle: It is a bit difficult to talk about specific circumstances in a generalised way. As the hon. Gentleman will perceive, there may be some material on a phone that police or immigration officers are worried breaks the criminal law—I talked about counter-terrorism and child sexual exploitation as potential examples. That information may be passed on and the relevant authorities might decide that it was not at a criminal level—that would be the kind of occasion that the hon. Gentleman was asking me about.

However, one would assume that, with the appropriate training, it would be fairly obvious whether something would be a worry for the purposes of counter-terrorism or child sexual abuse, and police forces could understand whether they have an obligation to try to prevent criminal activity of a category other than that for which the phone was originally seized. Once we begin to seize phones for narrow purposes, we have to make certain that passing on that information is lawful, and that is the purpose of the clause.

Question put and agreed to.

Clause 22 accordingly ordered to stand part of the Bill.

Clause 23

POWERS TO ACCESS, COPY AND USE INFORMATION STORED ON RELEVANT ARTICLES

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

The Chair: With this it will be convenient to discuss new clause 22—*Access to mobile phone location data*—

"(1) The Investigatory Powers Act 2016 is amended as follows.

(2) In section 86 (Part 3: interpretation), after subsection (2A)(b), insert—

'(c) illegal immigration.'

(3) The Immigration Act 2016 is amended as follows.

(4) In paragraph 4 of Schedule 10, (electronic monitoring condition), after subsection (2)(d) insert—

'(e) involve the tracking of P using P's mobile phone location data.'"

This new clause would allow law enforcement to access mobile phone location data of people who enter the UK illegally.

Dame Angela Eagle: I will wait until the hon. Member for Stockton West has spoken to his new clause before I respond to anything he says about it; I will briefly outline what clause 23 does and if the hon. Gentleman wants a reply, I will come back at the end.

Clause 23 will ensure that authorised officers can assess, examine, copy and use information stored on a relevant article. It will enable authorised officers to copy the information from electronic devices so that the device can be returned to the owner as soon as possible. The clause is vital to enable authorised officers to obtain the information needed in relation to facilitation offences under sections 25 and 25A of the Immigration Act 1971, to use for purposes relating to the prevention, detection, investigation or prosecution of such an offence. It is very much targeted at organised immigration crime and the facilitation of illegal entry to this country.

Clause 23 will help the Government to tackle organised crime groups, protect migrants from exploitation and prevent lives from being lost on dangerous journeys across the channel. Obtaining that information will further focus our approach to tackling organised crime groups, identifying as early as possible the trends in the

[Dame Angela Eagle]

activities of gangs, including their modus operandi, and providing the Government with improved information to prevent future fatalities.

2.30 pm

Matt Vickers: Clause 23 gives authorised officers the power to access, copy and use information stored on relevant articles that have been retained under powers detailed in clause 21, and authorises the use of any information retained under this clause relating to the prevention, detection and investigation, or prosecution of such an offence. We support the powers in the clause. However, it is important to bolster the utility of the powers in clauses 20, 21 and 23. It is for that reason that we have tabled new clause 22, picking up on the suggestion made by the former director general of Border Force in his written evidence to the Committee.

We have tabled the new clause because currently Border Force and immigration enforcement officers are not able to use mobile devices to track illegal migrants on bail. Although powers exist for electronic tagging, there are difficulties with using these powers and so they are not frequently used. At present, mobile devices can be used only for tracking people for serious offences. Under the Investigatory Powers Act 2016, an illegal entry into the UK does not count as a serious offence for these purposes.

Mobile devices are often used by migrants on bail to report by phone rather than in person, which minimises their risk of arrest and detention on reporting. Without access to location data about illegal migrants, they are able to stay at addresses not listed on their bail forms. If immigration officers were able to make use of location data from mobile devices, they would be better able to secure compliance with bail conditions and thus reduce the risk of absconding.

New clause 22 would allow law enforcement to access the mobile phone location data of people who enter the UK illegally. It would do so by adding illegal immigration to the Investigatory Powers Act 2016 as a serious offence that allows location data to be used. We would also amend the Immigration Act 2016 to allow a person's mobile phone location data to be used as part of electronic monitoring for immigration enforcement.

Of course, migrants can change phones, but they are more likely to make use of them than electronic tags. In our view, the new clause would add a useful new power to immigration enforcement teams. I am very keen to hear the Minister's view.

Dame Angela Eagle: New clause 22 proposes an amendment to section 86(2A) of the Investigatory Powers Act 2016. However, I do not think that this proposal is either necessary or appropriate.

The Investigatory Powers Act 2016 provides law enforcement and other relevant public authorities with the ability to acquire communications data covertly, where it is necessary and proportionate to do so. Members of the Committee should particularly focus on the seriousness of the powers conferred in the 2016 Act, including the ability to covertly acquire communications data where it is necessary and proportionate to do so.

With new clause 22, the question arises as to whether it is appropriate to add immigration issues to that area of the law, and whether, with an immigration issue, it would be necessary and proportionate to start acquiring covertly communications in an immigration setting. It is important to consider whether that would unbalance the Investigatory Powers Act 2016 and cause some issues that would probably weaken it.

The Investigatory Powers Act 2016 is intentionally neutral on the specific types of crime for which the powers within it can be deployed. Instead, it sets a threshold for serious crime, to enable access to more intrusive powers. The threshold for the acquisition of communications data—the who, when, how and where of communication, but not the content—is set out in section 86(2A) of the Investigatory Powers Act. Events data, which includes details of where and when a specific communication took place, is available only for crimes that meet the serious crime threshold. The threshold at section 86(2A)(a) of that Act is a crime for which a sentence of at least 12 months' imprisonment can be handed down.

The proposed new clause does not define illegal immigration, but many of the immigration offences in section 24 of the Immigration Act 1971, as recently amended by the Nationality and Borders Act, will already meet the serious crime threshold. There is no real reason to put immigration crime in there; it is already implicitly included. If we start to add particular instances, that will unbalance the way that the Investigatory Powers Act works. That is a technical point, but it is about keeping our statute book coherent, rather than adding things in for effect. Essentially, since offences under section 24 of the 1971 Act are indictable, the serious crime threshold would already be met, so events data can already be acquired as part of the investigation. We do not need to go through the rigmarole in the new clause to emphasise what is already possible.

Where offences do not meet the serious crime threshold, it would not be proportionate to extend the use of events data to those crimes. The right to private and family life is set out in article 8 of the Human Rights Act 1998, and it is important to uphold our obligations to the European convention on human rights. I know that is not always the most popular thing among Opposition Members, but as someone who voted for it in 1998, I am still quite proud of it. Defending our human rights and ensuring that such things are proper, proportionate and lawful is an important part of trying to pursue and deal with difficult cases with certain standards of behaviour.

Although article 8 is a qualified right, we must ensure that interference remains necessary and proportionate to the level of criminality. By introducing specific crime types that do not meet the sentencing threshold, we risk eroding the safeguards in the regime. By taking away the rights of people who may seem marginalised at the moment, I submit that we are putting at risk our own rights, and human rights in general. That is not something that I would want the Government to do.

New clause 22 would also unnecessarily amend schedule 10 of the Immigration Act 2016. Where a person is subject to electronic monitoring as a condition of their immigration bail, the Home Office can access their location details via the GPS tag or non-fitted device. There is no need to access mobile phone location data, because there are already powers to monitor the

whereabouts of individuals at risk of absconding. I hope that, having had that debate, the hon. Member for Stockton West will realise that those things are already covered in the way that we currently do things. I hope that he will not press the new clause to a vote, but obviously we will not know until we get on to voting on it—some time in the future.

Question put and agreed to.

Clause 23 accordingly ordered to stand part of the Bill.

Clause 24

AMENDMENT OF THE CRIMINAL JUSTICE AND POLICE ACT 2001

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

The Chair: With this it will be convenient to consider clause 25 stand part.

Dame Angela Eagle: Clauses 24 and 25 deal with amendments to the Criminal Justice and Police Act 2001, extending those powers to other authorised officers and to key definitions in the clauses. Clause 24 includes amendments to the 2001 Act to extend powers of seizure where a device may contain legally privileged material, excluded material and special material. The 2001 Act also contains essential safeguards for the handling of such material. Extending its powers will ensure that the seizure of any device will not be prevented by claiming that it holds legally privileged, excluded or special material, which is often an excuse that is raised when such matters come up.

Furthermore, clause 24 will ensure that this data is protected, but that operationally, the information needed can still be taken for the purpose of these powers, and that seized electronic devices are returned as soon as reasonably possible.

Clause 25 provides the Secretary of State with the ability to extend the powers to other authorised officers, via secondary legislation, if they are required to support the disruption of organised immigration crime. The Government will ensure that any decisions on extending the powers to other authorised officers will be fully considered before action is taken.

Matt Vickers: Clause 24 amends the Criminal Justice and Police Act 2001 so that provisions relating to the protection of legally privileged material and excluded and special material apply when mobile devices are seized under clauses 20 to 23. Can the Minister explain how often the Government envisage that those provisions would need to be invoked?

Clause 25 allows the Secretary of State to make regulations to extend the powers given to authorised officers in clauses 20 to 23, to be available to other people, including people designated by the Secretary of State. Why might these powers need to be extended to different categories of people? Who does the Minister have in mind? Why are those not included on the face of the Bill? Why was it judged appropriate that these powers are subject to the negative procedure?

Clause 26 defines key terms used in the preceding clauses, and we have no problem with those definitions.

Mr Will Forster (Woking) (LD): Clauses 19 to 23 contain very wide powers. Often, police constables have those powers only when they are authorised and monitored by their superiors, but the powers in the Bill almost allow civil servants and immigration officers to use them without oversight. Clause 25, first, allows Ministers to extend those powers to privately employed staff, and secondly, does so without requiring Ministers to give directions for the exercise of those powers. That sits very poorly with me. I am quite concerned about that. I can understand why we need some broad powers, and I was happy to let the others go through on the nod, but clause 25 seems to go further still. Could the Minister try to reassure me—or us? Particularly, would the Government agree to issue directions for the use of those powers, either today or before MPs vote fully, on Report? I think some colleagues out there will say that the private sector should not have these powers, but if they are clearly identified and statutory guidance is issued, I would feel a lot more reassured.

Dame Angela Eagle: The first thing to say is that the powers under the Criminal Justice and Police Act are already used by law enforcement and apply in many statutes. Therefore, all of these powers will be used to ensure compatibility with ECHR protections, GDPR protections and data protection generally. We have a very high level of expectation when it comes to data protection in these instances.

Both hon. Gentlemen—the hon. Members for Stockton West and for Woking—have asked about the extension to further authorised people, which is potentially available as part of the clause. It is not unusual—the hon. Member for Woking has made this point—for the Government to hire and use contractors, on either a short-term or a long-term basis, depending on demand or business needs. One example that comes to mind in this context would be for a forensic data specialist to do analytics of the information that had been downloaded. *[Interruption.]* I am very sorry if that is me. Hopefully it is not.

Some of this is about ensuring flexibility in the statute, within the protections that I have just talked about—the GDPR, data protection legislation and ECHR requirements—to be able to deal with the information in all circumstances without having to come back to primary legislation. Clearly, those people would be working under the same data protection expectations and requirements as any directly employed person working for the Home Office.

2.45 pm

The negative procedure is really just a flexibility issue. This is not, I do not think, as serious an extension as those who would believe that the Government are trying to instigate some kind of Stasi-style state would think it is. It is simply that if there was an organisation with particular expertise on a specific issue that we needed to get in to help process and deal with this kind of data appropriately, we would be able to do it without being constrained in primary legislation. I hope that provides reassurance.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clauses 25 and 26 ordered to stand part of the Bill.

Clause 27

SUPPLY OF CUSTOMS INFORMATION BY HMRC

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

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

Clauses 28 and 29 stand part.

New clause 23—*Exemptions from the UK GDPR: illegal migration and foreign criminals—*

(1) The Data Protection Act 2018 is amended as follows.

(2) In subsection (2)(b) of section 15 (Exemptions etc), at end insert ", and makes provision about the exemption from all GDPR provisions of persons who entered the United Kingdom illegally and foreign criminals;"

(3) In paragraph (2) of Schedule 2, after sub-paragraph (1) insert—

"(1A) GDPR provisions do not apply if the data subject entered the United Kingdom illegally or is a foreign criminal.

(1B) For the purposes of sub-paragraph (1A)—

(a) a person "entered the United Kingdom illegally" if they entered the United Kingdom—

(i) without leave to enter, or

(ii) with leave to enter that was obtained by means which included deception by any person; and

(b) "foreign criminal" is defined in accordance with section 32 of the UK Borders Act 2007."

This new clause would disapply data protection laws from data on people who have entered the UK illegally or are Foreign National Offenders.

Dame Angela Eagle: Again, I will reserve my comments on the new clause until after I have heard what Members on the Opposition Front Bench have to say about it.

The group entails clauses 27 to 29, which cover the arrangements for HMRC to supply information that it holds in connection with its customs functions. The group also covers new clause 23, which I will try and separate out so that I can try to answer the questions from the hon. Member for Stockton West, once he has put them.

Government Departments like the Home Office and law enforcement partners rely on information sharing for a range of purposes, including law enforcement and border security-related purposes. Key datasets are held by His Majesty's Revenue and Customs, many of which are held in connection with HMRC's customs functions. Existing statutory provisions to share this information are complex, fragmented and restrictive in ways that prevent the Government from taking full advantage of technology such as modern big data analytic tools.

Clause 27 will create a new power for HMRC to supply information that it holds in connection with its customs functions to a range of recipients, including UK Ministers, Government Departments, police, and certain international partners. HMRC will be able to supply information for use for the purposes of any of the functions of the recipient.

The sharing of entire datasets and the use of customs information for more than just customs purposes will enable the Home Office and other partners to analyse the information to identify suspicious activity that would not be apparent if each dataset were considered in isolation. This will support key Government objectives, such as disrupting and dismantling organised crime groups, preventing the unlawful movement of people and goods into the country, prosecuting offenders and protecting vulnerable people, as well as the Government's safer streets mission.

Clause 28 regulates how the information supplied under clause 27 may be used and disclosed by its recipients. The aim is to ensure that the information is fully safeguarded while also enabling Government Departments to use information received for any of their functions. That will ensure that maximum benefit can be derived from the information received.

Information shared under clause 27 is subject to a general rule: the person who receives it must only use it for the purposes for which it was supplied. They may not further disclose it to anyone without HMRC's consent. However, there are a number of exceptions to this general rule that will enable certain recipients to use and disclose information more flexibly. UK Ministers, Government Departments and the police will be able to reuse customs information for any of their functions and further share it between themselves for specified border security and law enforcement-related purposes. Additionally, there will be extra onward disclosure permissions for the Home Secretary so that she may disclose the information to any person for use for certain immigration and customs-related purposes.

Clause 29 regulates how the information supplied onwards in accordance with clause 28 may be used and disclosed by its recipients. The aim is to ensure that the information is fully safeguarded. The clause focuses on making clear the restrictions surrounding the reuse and onward disclosure of information supplied under clause 28. Any person supplying information in reliance on clause 28 or 29 must notify the recipients of these restrictions, as they apply to the reuse and onward disclosure of the information. In recognition of the particular importance of protecting HMRC information, which can include a great deal of personal information, clause 29 extends the existing criminal offence of wrongful disclosure under section 19 of the Commissioners for Revenue and Customs Act 2005 to apply to any person who discloses information in contravention of these restrictions.

The intent of clause 29 is a continuation of the safeguards laid out in clause 28, while ensuring that none of the restrictions go against the spirit of the overall information-sharing provision. Clause 29 protects information from being shared beyond the provision's intent. I will not deal with new clause 23, tabled by the hon. Member for Stockton West until he has spoken to it.

Katie Lam (Weald of Kent) (Con) *rose—*

Dame Angela Eagle: Ah, the hon. Lady will speak to it.

Katie Lam: We welcome the powers in these clauses to share HMRC data. Border Force is responsible for clearing both people and goods at the UK border. There is international precedent for moving towards joint targeting centres for people and goods. From a law enforcement perspective and from ours, the more customs information that can be shared with UK and other

Government agencies, the better. HMRC has a range of customs functions, including the collection and management of customs duty, monitoring and controlling the movement of goods, and control of cash entering or leaving the UK. HMRC is bound by a statutory framework of confidentiality and needs a lawful basis to disclose information.

Clause 27 will allow HMRC to share customs information in support of defending the security of the UK borders. The clause allows UK Ministers, Government Departments and the police to reuse customs information for any of their functions, as the Minister laid out. The clause also allows data to be shared with international organisations that have functions relating to the movement of goods or cash across international borders, or if an international arrangement makes provision for co-operation between that organisation and HRMC. We welcome the powers in clause 27. I would like to ask the Minister how often she expects these data-sharing powers to be used for law enforcement and her assessment of what practical effects the powers will have on making it easier to disrupt organised crime networks.

Clause 28, which we support, specifies the circumstances in which UK Government Departments, Ministers and the police can further share customs data. We also support clause 29 on the safeguards included in this clause. We have tabled new clause 23 to disapply data protection laws from data on those who have entered the UK illegally or are foreign national offenders. The purpose of the new clause is exactly the same as the purpose of clauses 27 to 29, which is to minimise barriers to data sharing between agencies for immigration and law enforcement purposes. We table it in the spirit of the support I have already mentioned for the Government's aims regarding data access.

If someone has entered the UK illegally or is a foreign national offender, law enforcement for their removal is vital and GDPR legislation should not stand in the way of being able to gather and establish any necessary evidence for use in immigration appeals or law enforcement. We wish to remove the barriers to data sharing in these cases, and we know the Government want that too. We hope that they will find the suggested new clause useful.

Dame Angela Eagle: I thank the hon. Lady for speaking to new clause 23. As she said, it seeks to disapply the protections afforded by the UK GDPR regulations to people who have entered illegally or who are foreign criminals. I think that would massively complicate data protection legislation, given that we would always have to keep an eye on who is a foreign national criminal or an immigration offender, over time as well as in the moment. That could make it harder to apply some of the data-sharing rules.

We believe that with the protections in clauses 27 to 29, we can get and share the information that we need to share, to its greatest effect, while protecting people from unlawful disclosure, without complicating things further by trying to check whether somebody is a foreign national offender or has entered the country illegally.

We have a strong history of maintaining high data protection standards. The legislation permits the use of personal data for legitimate purposes, such as immigration control, while giving the public the reassurance that such use will be subject to proportionate safeguards. Our approach will be to rely on the proportionate safeguards, rather than to disapply the entirety of data protection laws to certain groups of people who happen to be in our society at the moment. The proportionality test, with the focus on organised immigration crime, is important.

Becky Gittins (Clwyd East) (Lab): Does the Minister agree that the lesson learned from the previous Government, with the blanket application of some seizure powers under the Illegal Migration Act being so complicated that they were not actually enforced properly—as we learned from one of our witnesses—is a cautionary tale illustrating why new clause 23 should be rejected?

Dame Angela Eagle: It is certainly a good idea to create legislation that can actually be commenced. Otherwise, we are just all having a fun time in Committee—I can see everyone agreeing with me—and not affecting the statute book, making it easier to do what must be done or enabling the law to help with that rather than having a gigantic problem. As a Minister, I am certainly in favour of enacting laws that we can commence, and I hope that we will be able to commence large parts of the Bill as soon as it has made its proper progress through both Houses.

The UK has a long history of maintaining high data protection standards. Complicating them by trying to disapply them for certain individuals who are in our society whether we want them to be or not implies that we would have to keep very up-to-date, regular records of every single person in the country to check their status. That sounds like ongoing identity checks across the whole population, and that is easier said than done. It is not Government policy, and I did not think it was Opposition policy either. Although the new clause is well meaning, it is a complication rather than an assistance.

Where the exercise of data subject rights, such as the right to seek access to personal data, could undermine the tasks, appropriate exemptions can be applied on a case-by-case basis. Disapplying data protection rules in a blanket fashion for certain groups is unnecessary and could disadvantage some of the most vulnerable people in society, such as victims of trafficking. On that basis, I hope that the hon. Member for Weald of Kent will not press new clause 23, with the reassurance that we think that these clauses give us the power to use big data and big data analytics in a way that is in keeping with data protection laws, the GDPR and the ECHR.

Katie Lam: I take the Minister's points about practicality, but in situations where new clause 23 created additional complexity, the Home Office would retain the option to adhere to the GDPR if it wished to; it would just not be forced to do so. We really think that the provision would be a useful addition and we hope the Government will consider it further. However, we do not intend to press it.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Clauses 28 and 29 ordered to stand part of the Bill.

Clause 30

SUPPLY OF TRAILER REGISTRATION INFORMATION

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

3 pm

The Chair: With this it will be convenient to discuss clause 31 stand part.

Dame Angela Eagle: Clauses 30 and 31 concern the sharing of trailer registration information. Clause 30 creates a clear discretionary power for the Transport Secretary and, in practice, the Driver and Vehicle Licensing Agency to share some or all of the trailer registration information they hold with the Home Office, for specified purposes related to border security and law enforcement; the National Crime Agency and HMRC, for use in connection with their statutory functions; policing bodies, for purposes of policing law enforcement and safeguarding national security; and specified persons in the Crown dependencies and Gibraltar for purposes equivalent to their UK counterparts.

The measure is designed in recognition of the limited timeframes that law enforcement bodies have to review information and take decisions when risk-assessing thousands of lorry movements into the UK each day to prevent, detect, investigate and prosecute crime, and to conduct checks at the roadside. Border Force intends to use this information, alongside customs information and other information it holds, to develop a richer picture of vehicle movements and enable timely interventions. For the police, the National Crime Agency, HMRC and recipients in the Crown dependencies and Gibraltar, the value of the information will be realised via the law enforcement data service, which will provide it on demand at the point of need.

Tom Hayes (Bournemouth East) (Lab): I am sure that if we cast our minds back to 2019, we will all remember the awful case where 39 Vietnamese migrants died in the back of a trailer in Essex. Reading reports of what people found when they opened the lorry, and hearing about people dying in excruciatingly painful ways, makes us all realise that everything we are doing is about trying to stop harm to vulnerable people and save lives. Does my hon. Friend agree that this group of clauses will make it easier for data held by DVLA on UK-registered trailers to be shared with our law enforcement and police, and that as a consequence we might be able to avoid more misery and loss of life in such excruciating circumstances?

Dame Angela Eagle: I certainly agree with my hon. Friend. That is at the higher end of the harms that one would hope could be prevented by more timely access to this kind of information. These clauses will ensure that those charged with securing the border and beyond can use the information in line with the range of threat types enabled by cross-border lorry movements such as the one my hon. Friend just mentioned, to ensure that the law enforcement community engaged in tackling organised immigration crime, and wider serious and organised crime, are able to tackle it at pace.

Clause 31 complements clause 30 by setting out how information received by the Home Office and the police may be disclosed onwards, with whom and for what purposes. Robust inter-agency and international co-operation is crucial to smashing the criminal gangs. Border Force routinely works with the National Crime Agency and the police for the purposes of criminal investigations connected with the smuggling of people and illicit goods, and with HMRC for customs purposes. The police, in turn, need to be able to alert law enforcement partners to identify specific trailers of interest. Border Force and the police also need to be able to alert European law enforcement partners to intercept trailers where there might be a threat to life and in support of cross-border co-operation against illicit goods. This clause, subject to safeguards contained in clause 32, enables just such an outcome to be achieved.

Katie Lam: Clause 30 provides a power for the Secretary of State for Transport to supply trailer registration information to the Secretary of State for the Home Department for immigration purposes, law enforcement purposes, human welfare purposes, purposes connected with functions under the Proceeds of Crime Act 2002, protecting national security, and responding to an emergency. The information can also be shared with the National Crime Agency and HMRC.

We support the powers in the clause. As with the previous group of clauses, this is about being able to bring together the information held by different arms of the state to defend the border, and we wholeheartedly agree with that. I must confess that this is going to be a fairly friendly section of the afternoon, for which I can only apologise to all involved.

Clause 31 provides powers for the onward sharing of information in clause 30. It is important that that information can be shared with those exercising public functions, including those outside the United Kingdom. We also support the new powers in the clause.

Question put and agreed to.

Clause 30 accordingly ordered to stand part of the Bill.

Clause 31 ordered to stand part of the Bill.

Clause 32

SECTIONS 27 TO 31: GENERAL PROVISION ABOUT DISCLOSURE

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

The Chair: With this it will be convenient to consider clause 33 stand part.

Dame Angela Eagle: This group includes clauses 32 and 33, which provide for safeguards with respect to the customers and trailer registration information-sharing provisions, which we have just agreed will stand part of the Bill, as well as providing clarity about the meanings of terms within those clauses.

Clause 32 makes general provision about the disclosure of information with respect to clauses 27 to 31. That is information held by HMRC in connection with its customs functions, as set out in clauses 27 to 29, and the DVLA's trailer registration information in clauses 30 to 31. The clause does two things. First, it clarifies that clauses 27 to 31 do not limit how information may be disclosed outside of the scope of this legislation. It does not tie the hands of a named party to disclosing information subject only to the regime established here if another information gateway exists. Secondly, it clarifies that nothing in clauses 27 to 31 authorises disclosure where it would contravene UK data protection or investigatory powers legislation. In deciding on that, the clauses are

to be taken into account. Clause 32 neither treads upon other legal regimes to disclose information outside of the scope of this legislation nor permits anything that would fall foul of existing statutory safeguards—a perfect, balanced approach.

Clause 33 makes provision for the interpretation of clauses 27 to 31—the terms used, their scope and limits. First, it defines the meanings of certain terms through direct definition and in reference to other legislation. Secondly, it seeks to capture all UK police forces and bodies that might be the end users of the information, referring to a "UK authorised person" and a "UK authorising officer" for the purposes of clause 30, and defining what it means in this clause.

The use of the terms "UK authorising officer" and

"the person under whose direction and control the constable…is"

avoids reliance on references to chief constable, commissioner and chief officer, because those terms have prescribed legal meanings that exclude the commanders of the very important ports police and the even more important Mersey Tunnels police, which rely on other ranks to command. That ensures that the definitions apply to everybody, whatever the force. The ports forces and the Mersey Tunnels police are an extremely important part of defending the border, for obvious reasons.

For "UK authorised person", the term constable, which includes special constable, is used. The clause also refers to

"other person who is under the direction and control of a person who has the direction and control of a body of constables".

Such is the poetry of legislative diction, but lawyers know exactly what that means. Instead of police civilian staff, or similar terms with prescribed meanings, we have that rather long and convoluted explanation, which includes everybody. That is because not all forces employ police staff subject to employment contracts. Some also use police volunteers. The MOD police uses civil servants in such roles, while the Police Service of Northern Ireland has powers to use civil servants separately from employed police staff. Use of "other person" accommodates all these cases, so it is all-encompassing, and I hope we have not missed anybody out.

Thirdly—this applies only to the trailer data—we have worked with the Crown dependencies and Gibraltar to identify persons undertaking statutory functions equivalent to their UK border security and law enforcement counterparts. We have defined them as a non-UK authorised person and specified them in a table along with the authorising officers.

Finally, the clause establishes a regulation-making power for the Secretary of State to define the meaning of specified purposes related to policing to ensure that the data requirements are met today and can be updated from time to time as operational requirements evolve. Such an extension would be subject to consultation with policing bodies across the UK, Scottish Ministers and the Department of Justice in Northern Ireland, and it would require the affirmative resolution of both Houses. With those reassurances, I hope members of the Committee will be happy to support clauses 32 and 33.

Katie Lam: Clause 32 makes general provision about the powers of disclosure in clauses 30 and 31. Subsection (2), as the Minister laid out, clarifies that nothing in clauses 27 to 31 authorises disclosure where it would otherwise contravene data protection or investigatory powers legislation. How much difficulty does the Minister envisage these provisions causing for the sharing of information? I seek reassurance—she has offered some already—that the safeguard will not frustrate legitimate data-sharing activities. Clause 33 defines key terms included in clauses 27 to 31, and we have no problems with it.

Dame Angela Eagle: I reassure the hon. Lady that we do not envisage the definitions causing any practical problems with data sharing and the powers defined in clauses 27 to 31.

Question put and agreed to.

Clause 32 accordingly ordered to stand part of the Bill.

Clause 33 ordered to stand part of the Bill.

Clause 34

PROVISION OF BIOMETRIC INFORMATION BY EVACUEES ETC

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

The Chair: With this it will be convenient to consider clause 35 stand part.

Dame Angela Eagle: Clause 34 is critical to the Government's ability to manage crises and support evacuations effectively. Where the UK Government are considering or have facilitated an individual's departure from a country in crisis, it is essential to lock in identity and conduct necessary biometric checks at the earliest opportunity, for obvious reasons. Clause 34 ensures that there is a clear legal framework for collecting biometric information outside the UK in these exceptional circumstances. The clause includes important safeguards, particularly for children, to ensure that biometric data is collected responsibly. The provision reflects the UK's commitment to maintaining both security and efficiency in high-risk international evacuation situations.

3.15 pm

Clause 35 details the Government's approach to the use and retention of biometric data gathered subject to clause 34. It sets out the circumstances in which the Secretary of State may use the information, mainly in connection with their duties relating to immigration and nationality, along with law enforcement and national security. In line with data protection legislation, the information will be retained only if this is necessary, and will be destroyed either when no longer needed or within five years. The clause contains important safeguards that protect the data of individuals in scope of clause 34.

Katie Lam: Clause 34 provides a power for an authorised person to take biometric information when the Government are in the process of facilitating their exit from a state or territory. The purpose of the power is to ensure that only those who qualify under particular evacuation schemes are able to come to the UK. The power to take biometric information should help to verify identity and conduct screening checks, as individuals in these circumstances are often undocumented. We fully support the provision.

[Katie Lam]

We would be interested to hear more about whether the Government intend to take further action on biometrics, which could be brought about through the Bill. Countries such as Dubai and Singapore are investing in biometric entry and exit systems, as is the EU. The UK does not routinely capture biometrics at the border, although with the new UK electronic travel authorisation, we will collect digital photographs of all non-visa nationals, with the option of retaining fingerprint scans.

We are aware that there are logistical and financial challenges to enabling Border Force to collect biometrics routinely from all passengers on arrival and departure, but there are also substantial benefits, including helping to match illegal migrants and asylum seekers leaving the country, thereby giving a clearer picture of those who are overstaying through more accurate migration figures. We would be interested in hearing how the Government are thinking about biometrics more broadly in the context of their not extending the power to capture biometrics more widely in the Bill.

Dame Angela Eagle: Working out the potential for electronic borders and a more sophisticated approach to the hundreds of millions of journeys that cross our borders every year is an important part of the day job of my hon. Friend the Member for Feltham and Heston. This is a more limited clause, but we are certainly investigating the potential, costs and benefits of a much more digitalised border. We are not about to introduce that through this Bill, but there will be more to be said when that work has been done in due course.

We understand the potential for making border crossings much more convenient for everybody while having more robust information about who has crossed borders, and when and where they were crossed. Some of this is about goods, trailers and a range of other things crossing borders, and ensuring that we have information on when people smugglers and clandestines cross borders, too.

Tom Hayes: I note that clause 34(3) sets out the requirement for an authorised person only to take biometric information from a child under the age of 16

"in the presence of a person aged 18 or over who is—

(a) the child's parent or guardian, or

(b) a person who for the time being takes responsibility for the child."

Does the Minister agree that we ought not to disapply the requirement for consent on such tests for children who are under the age of 16?

Dame Angela Eagle: It is important that we uphold standards and have those requirements, which is why the clauses we are debating do that. These clauses deal with the need, in an emergency situation, to evacuate people who are British citizens and/or people who live in families that include British citizens. It is about being able to get them to safety but, at the same time, to collect biometric information so that we can check who they are. It is much more effective for us to do that at the earliest opportunity rather than getting them to the UK or on UK territory and having to do it then. That is why the clauses will put us in a much better situation from the point of view of identity and security checks, if there is an emergency evacuation of British nationals from a particular place in the future, which we hope will not happen.

Question put and agreed to.

Clause 34 accordingly ordered to stand part of the Bill.

Clause 35 ordered to stand part of the Bill.

Clause 36

Provision of biometric information at ports in Scotland

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

Dame Angela Eagle: Clause 36 will enable the biometrics of persons detained in Scotland under schedule 8 to the Terrorism Act 2000 and schedule 3 to the Counter-Terrorism and Border Security Act 2019 to be taken at ports, thereby bringing the position in Scotland into line with that in England, Wales and Northern Ireland.

Those schedules allow an examining officer—a constable, or a designated immigration or customs officer—to stop, question, search and detain a person at a port, or at the border area in Northern Ireland, for the purposes of determining whether the person appears to be a person who is, or has been, engaged in terrorism or hostile activity. An examining officer may stop and question a person whether or not there are grounds for suspecting that the person is, or has been, engaged in terrorism or hostile activity. Those are important powers that allow counter-terrorism police officers to detect, disrupt and deter terrorism and hostile activity at the border.

The powers for taking biometrics in Scotland are contained in paragraph 20 of schedule 8 to the 2000 Act and paragraph 42 to schedule 3 of the 2019 Act. Clause 36 amends those paragraphs, removing the unnecessary restriction unique to Scotland that requires that those detained under those powers are taken to a police station to have their biometrics taken. The clause will allow biometrics to be taken much more easily and quickly in situ, rather than the person having to be transported to a police station.

Katie Lam: Clause 36, as the Minister has laid out, extends biometrics powers to ports in Scotland. As we understand it, immigration enforcement already has the power to take biometrics from people arrested in the UK, including at ports, if they are suspected of having entered or remained in the UK illegally. How does the Minister think that the clause will add to existing operational powers?

Dame Angela Eagle: It is a lacuna in Scotland rather than a problem elsewhere. It is simply that, in Scotland, biometrics cannot be taken except in a police station. In his 2020 report on the operation of the Terrorism Acts 2000 and 2006, the independent reviewer of terrorism legislation recommended that we address the issue. We saw the Bill as an opportunity to deal with what is obviously an unintended kink, so we are ironing it out.

Katie Lam: That is very helpful, but I just want to check that I fully understand what the Minister is saying. The power already exists, but it is about locational flexibility—is that right?

Dame Angela Eagle: At the moment, under Scottish law, biometrics—in this instance—must be taken in a police station. Everywhere else, they can be taken in situ. We are just bringing the situation in Scotland into line. It is a minor change, but it will have an important practical effect.

Question put and agreed to.

Clause 36 accordingly ordered to stand part of the Bill.

Ordered, That further considered be now adjourned.—*(Martin McCluskey.)*

3.24 pm

Adjourned till Tuesday 11 March at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

BSAIB22 Humans for Rights Network and Border Criminologies (joint submission)

BSAIB23 HIAS + JCORE

BSAIB24 Labour Exploitation Advisory Group (LEAG)

BSAIB25 British Red Cross

BSAIB26 United Nations High Commissioner for Refugees (UNHCR)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Seventh Sitting

Tuesday 11 March 2025

(Morning)

CONTENTS

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

not later than

Saturday 15 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, Dr Andrew Murrison, † Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 11 March 2025

(Morning)

[Graham Stuart *in the Chair*]

Border Security, Asylum and Immigration Bill

9.25 am

The Chair: Would everyone please ensure that all electronic devices are turned off or switched to silent mode? We now continue line-by-line consideration of the Bill. The grouping and selection list for today's sitting is available in the room, as well as on the parliamentary website. I remind Members about the rules on the declaration of interests, as set out in the code of conduct.

Clause 37

Repeal of the Safety of Rwanda (Asylum and Immigration) Act 2024

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

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure once more to be in this delightful room doing line-by-line scrutiny of the Bill.

The clause repeals in full the Safety of Rwanda (Asylum and Immigration) Act 2024. The Act, which requires that decision makers treat Rwanda as a safe third country for the purposes of removing individuals there, and disapplies sections of the Human Rights Act 1998, was passed by the previous Government in an attempt to facilitate removals to Rwanda under the migration and economic development partnership. Despite that, the Act has served no practical purpose since it became law: no decisions were made that were affected by its provisions, and, as we have stated repeatedly, only four individuals were ever relocated voluntarily. No enforced removals to Rwanda ever took place under the partnership.

The Government have been clear from the outset that we will not proceed with the partnership. There is no evidence that it was successful in deterring small boat arrivals, nor has it delivered value for money for the British taxpayer. On the contrary, nearly 84,000 people arrived on small boats between 14 April 2022, which was the date the partnership was announced by the former Government, and 5 July 2024, which was the day after this Government were elected.

The Government have been clear that we will not make further payments to Rwanda, saving £100 million in upcoming annual economic transformation and integration fund payments, and a further £120 million that the UK would otherwise have been liable to pay once 300 individuals had been relocated to Rwanda. That is without even considering the additional staffing and operational costs, which would have been substantial. We will also exit the UK-Rwanda treaty as part of ending the partnership. It is therefore appropriate for the Government to repeal the Safety of Rwanda Act so that the legislation, which relies on the provisions of the treaty, will no longer be on the statute book. That is what clause 37 achieves.

Matt Vickers (Stockton West) (Con): Clause 37 repeals the Safety of Rwanda (Asylum and Immigration) Act 2024. In doing so, the Government are removing the only deterrent, and indeed the only place where we can send people who have arrived from a safe third country. It is well established that it is extremely difficult to return people to some countries. In addition, the lack of documentation can frustrate the process of removal to someone's home country. That is why a third country deterrent is needed: if people cannot be removed to their home country, they can and will be removed to a third country.

The logical consequence of repealing the Safety of Rwanda Act is that a greater number of migrants will arrive from countries that are harder to return them to. Without some form of agreement to send the migrants to a safe country, they will continue to come and to stay. Section 80AA of the Nationality, Immigration and Asylum Act 2002 contains a list of safe countries, but the list is limited to countries that contribute very few illegal migrants, save for Albania. The last Conservative Government cut the number of Albanian illegal migrants coming to the UK by small boat crossings by over 90%, showing that our returns agreement with Albania worked. As the former director general of Border Force said:

> "If we cannot send them back, we could send them to another safe country—ergo, Rwanda—where they could be resettled safely without adding to the continuing flow of arrivals by small boat from France."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee*, 27 February 2025; c. 41, Q43.]

Channel boat crossings are up 28% since the election, with more than 1,300 people crossing in the week commencing 1 March 2025. This Labour Government have smashed farmers, small business owners and pensioners, but it seems that the people-smuggling gangs are the only ones who are safe. The only thing that will stop the gangs is a strong deterrent that means that people do not board small boats because they know that they will be deported if they reach the UK, and they will not be allowed to stay.

The additional offences and powers in this Bill are welcome as far as they go, but, with the scrapping of the Conservatives' deterrent—that if someone has no right to be in this country, they will not be able to stay—this Bill is just window dressing. It will not, and cannot, stop people crossing the channel in small boats. The Government know that, because their own impact assessment shows that only a handful of people each year would be imprisoned because of the new offences created by this Bill.

Since the announcement that our deterrent would be scrapped, there are almost 8,500 more people in asylum hotels. That is the Government's failure.

Tom Hayes (Bournemouth East) (Lab): I was trying to count the number of times the hon. Member used the word "deterrent", and I ran out of fingers. Could he please define what a deterrent is?

Matt Vickers: Does the hon. Gentleman want me to use my fingers to help him to count? The deterrent is

preventing people from getting in those boats. If people know that they will be detained and removed when they arrive in this country, they will stop coming.

Mike Tapp (Dover and Deal) (Lab): Does the hon. Gentleman acknowledge that the crossings have risen from 299 in 2018 to more than 150,000 since then, the majority of them on the Conservatives' watch? Does he also acknowledge that deportations have increased by 24% under this Government?

Matt Vickers: Does the hon. Gentleman know what has happened with global migration? If we compare the movements that have been made in the last week, those into Europe and those into this country seem to be slightly misaligned. The number of people arriving in this country is up 28%. The number of people put into hotels in communities across this country is up 29%; that is 8,500 more people. The number of people who have arrived in this country illegally and been removed is down significantly since this Government came to office.

It is clear that a new approach is needed. The National Crime Agency said that stopping channel migrants is not possible without a Rwanda-style scheme. It was a terrible mistake for Labour to cancel our deterrent before it had even started. The Labour Government like to point out the cost of the Rwanda plan, but a deterrent that stops illegal migrants from making the crossing and settling in the country will save the state billions in lifetime costs.

As Karl Williams from the Centre for Policy Studies pointed out,

"the Office for Budget Responsibility's analysis last summer…estimates that a low-skilled migrant, or low-wage migrant as the OBR puts it, will represent a lifetime net fiscal cost to the taxpayer of around £600,000."

Williams then pointed to

"analysis from Denmark, the Netherlands and other European countries that asylum seekers' lifetime fiscal costs tend to be steeper than that"—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 43, Q49.]

The evidence therefore suggests that if 35,000 people cross the channel a year—that is roughly where we were last year—at that sort of cost range, the lifetime costs will probably be £50 billion or £60 billion.

Tom Hayes: I ask the hon. Member to desist from referring to that report. In oral evidence, I asked two experts whether they thought it was possible to make such assessments on the basis of the available evidence, and they declined. In fact, the author of that report said that the available evidence was fairly lacking in robustness and integrity. When I asked him whether he had considered certain key counterfactuals, he admitted that he had not. Later, in response to my question about whether it was appropriate for MPs to brandish such research, Professor Brian Bell said that it would be "foolhardy" to do so because the report itself made "very brave" assumptions.

Will the hon. Member now desist from using that report, given that we are in a democracy, we are striving for accountability and truth, and we should not be using fake information?

The Chair: Order. Interventions must be short.

Tom Hayes: I apologise, Mr Stuart.

Matt Vickers: I will not desist from using those figures, but I would be happy to hear the hon. Member's alternative figures when the time comes. I am sure this is not cost-neutral; I am sure it is very expensive.

As I was saying, that is why an effective removals and deterrent agreement is needed. I ask the Minister whether the Government are looking at a removals and deterrent agreement. If not, why are they repealing the UK's only deterrent? How does she think we can control our borders without one, when it is clear that this Bill will not be effective in doing so? Does she agree with the National Crime Agency that a removals agreement is the only way to stop channel migrants, as happened with Operation Sovereign Borders in Australia?

The Government say that they are clearing the backlog and returning people who arrived on small boats. That is just not the case. The most recent immigration figures show that the asylum backlog is higher than when Labour came into office, and returns of small boat arrivals were down again in the most recent quarter, with only 4% of arrivals being removed. In fact, of the total returns between October and December 2024, only 16% were enforced; in the three months before, only 13% were. Does the Minister think that allowing 96% of illegal immigrants who arrive by small boat to stay in the UK is a deterrent?

Tom Hayes: It is a pleasure to serve under your chairmanship, Mr Stuart, and I promise that I will be briefer. Does the hon. Member agree that the overwhelming trend under the last Conservative Government in the balance between enforced and voluntary returns was in favour of voluntary returns? In fact, in 2023, only 24% of returns were enforced, in 2022, 25% were and in 2021, 27% were. Does he not agree that the trend over the last years has been one of voluntary returns?

Matt Vickers: I would say that the big issue around deterrence is how many of those who arrive in small boats are removed. Despite the fact that the number of those arriving illegally is up 28%, the number who are being returned is down significantly. That is the big question at play here.

Tom Hayes: I thank the hon. Member for his patience. Does he agree that he is moving the goalposts slightly to manufacture a political argument that, as he knows, would not be supported by the evidence available? Furthermore, will he look back into history at the record of the last Labour Government? I invite him to comment on their success—I know that he will want to jump at that. In 2004, 85% of people reaching our country were removed through enforced returns; in 2005, 73% were. Where there was a trend of enforced returns, it was actually under the last Labour Government.

Matt Vickers: In terms of the political arguments, what people out there want to see is the number of people arriving illegally in this country going down. They are not seeing that; it is up 28%. They want to see the number of hotels in communities across the country

[Matt Vickers]

going down. It is not, although it was. The number of people arriving was also going down, but it is now up 28%, and there are 8,500 more people in hotels. That is the reality of the situation.

Dame Angela Eagle: I thank the hon. Gentleman for giving way; he is being very generous. Of course, that is what Committee debates are meant to be about; it is easier to have a bit more to and fro in Committee than it often is on the Floor of the House, when we have two and a half minutes and we have had to rewrite our speech and discard most of what we were going to say.

Will the hon. Gentleman admit that the way in which the Illegal Migration Act interacted with the Safety of Rwanda Act meant that nobody could be processed at all; they were just stuck, and there was a build-up in hotels of small boat arrivals and other asylum claimants who could not be processed? That meant that there was a big backlog, and we have had to restart decision making. That inevitably means that there will be a slowdown in sending back people who have arrived by small boat until we can get on top of the backlog that the Conservative Government created.

Matt Vickers: The principle at stake is that if someone arrives in this country illegally, they will be removed. We were not processing people who had arrived illegally and were meant to be removed, but we were returning more of them before the election than we are now. However, I will get through my comments, and there will be plenty of time then for debate—we have a full morning ahead of us.

Does the Minister think that allowing 96% of illegal migrants who arrive by small boat to stay in the UK is a deterrent? At the moment, people know that if they come here on a small boat, they are 96% likely to be allowed to stay. That is a strong pull factor. The only way to remove that pull factor is to reinstate a strong deterrent. People need to know that if they arrive here on a small boat, they will not be able to stay. Can the Minister explain how she will increase the number of removals without a third country to which migrants can be sent? If it is not Rwanda, where will they go? Will it be Redcar? Will it be Romford? Will it be Richmond? Where will these people who cannot be removed to a safe country go?

As Alp Mehmet said,

"repealing the Rwanda Act will encourage illegal immigration… 240,000 people were declared to have entered"

the EU "illegally last year" and will likely end up coming to the UK. The Government have confirmed with this Bill and the repeal of the Safety of Rwanda Act that there is no deterrence, because once people arrive here, the likelihood is that they will be able to stay. Mehmet also echoed the comments from the National Crime Agency, saying,

"the only deterrent is to restrict arrivals, and to contain and remove quickly. That will send the right message."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 39-40, Q43.]

As he pointed out, there is not "anything in the Bill" that would suggest that people will be removed quickly. Why has a removals agreement not been included in the Bill? The EU is now looking at offshore processing and deportation centres. There is also a growing consensus in the EU that the 1951 refugee convention is not fit for purpose. What assessment has the Minister made of the impact of these changes on the UK? Why have the Government scrapped the Rwanda plan, leaving the UK as an outlier? We wish to oppose the repeal of the Act by way of a Division.

Jo White (Bassetlaw) (Lab): I welcome the opportunity to examine the failed Rwanda scheme. The Israeli scheme, which was set up more than a decade ago, provides stark evidence that the previous Government should have considered before recycling an idea that has cost taxpayers £700 million. In Israel, asylum seekers were given a stark choice: be sent home, go to a migrant detention facility or take $3,500 on a one-way flight to Rwanda. One such asylum seeker quickly found that he was not welcome on arrival. No sooner had he landed in Kigali than he was told he had to leave again for Uganda, and for a fee. He said that he quickly left for Greece on a small boat and then travelled over land to Switzerland, where he is now settled. Another used a $5,000 payment that he received to catch a flight to Amsterdam, where he then claimed asylum status.

The previous Conservative Government entered into the agreement with Rwanda with full knowledge of the previous failings there and offered individuals a personal payment of £3,000 to resettle their lives. Figures have been bandied about on how many asylum seekers Rwanda was willing to take, with the previous Government saying 1,000, and Rwanda saying between 100 and 200. It is not clear who was right, but a question that has often been repeated to me is: how can that be regarded as a deterrent? Indeed, our witnesses from the refugee support organisations made the point that people will continue to come and try their luck, and 84,000 took that risk. I welcome the fact that we have our common sense back and we are repealing the Act, but I despair at the waste of taxpayers' money on pursuing a fantasy that had already failed elsewhere.

Pete Wishart (Perth and Kinross-shire) (SNP): Good morning to you, Mr Stuart, for week two of our fascinating journey into the depths of the Bill. There will be absolutely no argument from me about this one, and I wholeheartedly agree that the Bill must go through. When we look back at the whole sorry Rwanda debacle, we will wonder how on earth such a crackpot scheme was not only conceived, but actually constructed and delivered. A few words will be forever on the gravestone of the last Conservative Government: "stop the boats" and "Rwanda". It was the first time, in my experience, that an Act decreed a new reality. Through sheer willpower alone, the Conservatives declared that Rwanda was a safe place, and in true Orwellian style, they even called the legislation the Safety of Rwanda Act. It was the most blatant political attempt ever to try to convince us that black was white.

Rwanda is so safe that it is currently accused of supporting the M23 militia, which is claimed to be recruiting child soldiers and carrying out killings and rapes of civilians in the Democratic Republic of the Congo. Saying all that, Rwanda played an utter blinder. It milked this for all it was worth. It saw these mugs coming. So far, Rwanda has made £240 million—money

that will not have to be paid back. The Bill was described by the Law Society as "defective" and "constitutionally improper", and it was declared unlawful in the Supreme Court. All those rebukes did nothing for the Conservatives other than to encourage them to ensure that the idea became a reality.

We just have to look at the sheer waste and the sheer stupidity that was the very essence of the Rwanda policy. The headline was that it cost taxpayers £750 million and failed to deport a single asylum seeker against their will. There was £270 million to support economic development in Rwanda, £95 million for detention and reception centres and £280 million for other fixed costs. Fifty million pounds was spent preparing for flights that never took off.

Then there is the farce of the Kigali four—the four volunteers sent to Rwanda, who were the only people who actually made it through the whole scheme. *Tortoise* did us a favour by unearthing the script that was used when the Home Office tried to persuade people to take up a "generous one-time offer" of a relocation package to Rwanda. One source said that demonstrated an

"insane level of resource that went into just proving the concept".

9.45 am

The Tories were so obsessed with the scheme that it totally blinded them to what was happening in the rest of the immigration landscape. We heard an example of that from the Minister. They were so exclusively focused on Rwanda and spent so much political capital on it that they did not notice the hundreds of thousands of people who just happened to come into the UK through a new immigration system that they had put in place but did not properly understand. Even small boat crossings hit record levels in the year that the Rwanda policy was announced, and deaths in the channel steadily rose in the subsequent period. A deterrent it most definitely was not.

Asylum seekers came to the same assumption as every other practical person in the UK: they knew that there was no chance, or very little chance, that they would ever be put on a flight to Rwanda. The Tories tell us that they want to keep the policy. Instead of defending it and trying to bring it back, they should apologise for it and promise never to come up with something as hare-brained again, but after listening to the leader of the Conservative party over the weekend talking about stopping human rights for asylum seekers, I do not think they have learned their lesson. They should be asking for forgiveness for trying to forcibly remove refugees to a third country where their safety could not be guaranteed. They have a hard neck trying to bring the scheme back, and have lost the little credibility they had left on asylum.

I have just few words of caution for my Labour colleagues. It was great to see them so animated this morning; this is obviously a real target. We all love Tory-bashing, and this presents such an obvious target for all of us, so enjoy yourselves—but I have a warning. Labour Members talk about deterrence, and I followed with great interest the exchange between the hon. Member for Stockton West and the hon. Member for Bournemouth East. The Government have put deterrence at the heart of their Bill, but if Rwanda was not going to work, neither are some of the features in the Bill. People sitting in a war-torn region take no account of deterrence.

I wonder just how long it will take the Labour Government to start to get into the same territory as the Tories. I can see it coming: they are backtracking on the Illegal Migration Act 2023 and some other features in this grotesque race to the bottom of who can be the hardest on Reform. I suspect that in a few years' time the hon. Member for Stockton West might actually get his wish and the Labour party will introduce Rwanda mark 2. I say to Labour Members: "Think very carefully—particularly about clause 38, about the IMA—about wandering down this route." I have my doubts that they will resist the temptation to revisit some of the territory that the Conservatives trailblazed with their last stupid scheme.

Mike Tapp: I thank the hon. Member for Stockton West for his creative statement. The chaos in our asylum system and the dangerous rise in illegal small boat crossings is, of course, one of the greatest challenges facing our country, and for years the British public have been promised solutions. They were told that the previous Government's Rwanda policy would fix the problem, but instead it proved a costly failure. It got stuck in legal battles, was riddled with operational flaws and was utterly ineffective. I will go into detail about that soon.

In 2018, 299 people crossed the channel on small boats. By 2022, the number had surged to 30,000—a hundredfold increase on the Conservatives' watch. Despite their grand claims that the Rwanda scheme would act as a deterrent, more than 80,000 people crossed the channel after the scheme was announced, and not a single asylum seeker has been successfully removed under it—not one. It is clear that this policy failed.

Let us start with the legal reality. The Rwanda asylum scheme was not just controversial but unlawful. In November 2023, the UK Supreme Court struck it down, ruling that Rwanda was not a safe country to send asylum seekers. The reason for that was systematic defects in Rwanda's asylum system: almost no claims from Afghans, Syrians or Yemenis were ever approved. The Court found a serious risk that genuine refugees could be sent back to danger, in direct breach of international law. Let us not forget that Rwanda has a track record here: a previous deal with Israel, mentioned by my hon. Friend the Member for Bassetlaw, led to refugees being secretly deported back to their home countries, in clear violation of human rights protections. This policy depends on breaking the law, and that is no policy at all. It is a legal and moral dead end.

That is why the Bill repeals the Rwanda scheme and replaces it with a system that upholds the rule of law. It will focus toughness where it belongs: not on desperate people, but on the criminal gangs who exploit them. Instead of wasting years in court, we will implement a legally sound system that actually works.

Further, the Rwanda scheme was not just unlawful; it was an economic disaster. As of mid-2024, at least £318 million had already been spent on this failing policy. What did taxpayers get in return? Nothing—no removals or deterrent effect, just an ever-growing backlog of cases and ever-rising hotel bills, which we have inherited. Even if the scheme had gone ahead, it would have been staggeringly expensive. The National Audit Office estimated that removing just a few hundred people could cost up to £2 million per person, yet we are expected to believe that this was a serious solution to the problem of tens of thousands arriving each year on the Conservatives' watch.

[Mike Tapp]

This Government are putting an end to that waste. Instead of throwing money at a scheme that does not work, we are investing in practical measures. This approach is already delivering results: since taking office, the new Government have increased enforced removals by 24%. That shows that when we have a working system, we do not need gimmicks like the Rwanda plan; we just need competence.

This is not just about law or economics. It is also about how we treat people. A core British value is strength, but another is decency. Strength without decency is weakness, as the previous Government demonstrated. The Rwanda scheme was not just ineffective; it was cruel. It was based on the idea that people fleeing war and persecution should be someone else's problem, no matter the risk to their safety.

Let us be clear that many of those crossing the channel are genuine refugees—they include people fleeing the Taliban in Afghanistan, dictatorship in Iran and war in Syria—but the Rwanda policy, and, it would seem, the Conservatives, did not care. The policy made no distinction, lumped everyone together and treated them as a problem to be shipped off 4,000 miles away, out of sight and out of mind—although of course it did not work.

That is not the British way. This country has a proud history of offering sanctuary to those in need, and we do not abandon our humanitarian duties for the sake of a headline and a gimmick. Of course, those who should not be here will be deported, as we are already seeing, and those who genuinely need help will receive it under this Government. A true deterrent is taking out the smuggling gangs and deporting those who should not be here. The truth is that we do not stop the boats by shouting slogans; we stop the boats by giving people an alternative.

Finally—I thank hon. Members for their patience—the Rwanda plan was never operationally viable. Even if it had survived the legal challenges, the logistics were impossible. To make it work, the Government would have had to detain nearly every small boat arrival indefinitely—a task for which we simply do not have the detention space, the staff or the legal authority. Rwanda itself had agreed to take only a few hundred people a year, which is a drop in the ocean—excuse the pun—compared with the scale of the problem. Meanwhile the real criminals—the smuggling gangs—continued to operate freely. The Rwanda plan did nothing to target them. It was an illusion of control, rather than a real solution.

This Government take a serious, workable approach. That is how we secure the border: not through wishful thinking, but through real enforcement. The Conservatives have tried gimmicks. They tried grandstanding; they tried expensive, legally dubious, headline-chasing policies, and they failed. It is time to move forward. We will uphold the rule of law, protect those in genuine need and take real action against the criminals exploiting them.

Katie Lam (Weald of Kent) (Con): These are difficult problems and challenging questions. Practically every country in the western world is struggling with this and, with the notable exception of Australia, effectively none has solved it. The basic logic of the situation is that, if someone comes here illegally from a place to which it would be dangerous to return them, there are only four options.

First, they could be sent back to the country they came from. That is not legal in our current framework—even before getting to the morality of doing such a thing. Secondly, they could be put in immigration detention indefinitely. That is also not legal; a person can be held in immigration detention only if there is a realistic prospect of removal, which there would not be in this case. Thirdly, they could stay here indefinitely. That is not fair, and it is not what the public want. Finally, they could go somewhere else—a safe third country. Such an agreement was very difficult to broker; indeed, until the Rwandans agreed, many considered it to be impossible.

Clearly, the Government have little time for the Rwanda scheme and destroying it was one of the first things they did in office, but the basic logic problem remains. The last Conservative Government did not get everything right—that is for sure—but the Rwanda scheme was a genuine attempt to solve this truly hard problem, and it remains the only solution that we can see.

Chris Murray (Edinburgh East and Musselburgh) (Lab): Does the hon. Lady accept that there is a fifth option? Just because someone does not have the right to be in the UK, it does not mean that they do not have the right to go to any other country in the world. The programme of voluntary returns, which massively went down under the Conservatives but has gone up massively under this Government, is part of the solution to that.

Katie Lam: As we have heard, people who have come here illegally are not voluntarily leaving the country. Most of the voluntary returns are overstayers or people who have not come here on small boats.

Chris Murray: But they could.

Katie Lam: But they do not. There will always be people who come to this country illegally from dangerous places. They are human beings responding to obvious incentives. Could the Minister please tell us which of the four options she thinks is the right one? Is it sending someone back to a dangerous country, which will entail a change in the law and probably leaving the European convention on human rights? Is it holding someone in immigration detention indefinitely, which has the same conditions? Is it allowing people to stay here, or is it sending them to a third country?

Becky Gittins (Clwyd East) (Lab): It is a pleasure, once again, to serve under your chairpersonship, Mr Stuart. I was disappointed but not surprised to hear that the official Opposition want to keep the Safety of Rwanda Act on the statue books. I was disappointed for a number of reasons, which I will set out shortly, but I was not surprised. I have seen the way in which the Tories continue to position and conduct themselves on immigration policy. It is clear to me that they simply refuse to learn the lessons of the last 12 months. The public saw right through their Rwanda plan. They could see it for exactly what it was: a gimmick that was both unworkable and unaffordable.

Before today, I thought I would familiarise myself with the Report stage and the Third Reading of the Safety of Rwanda (Asylum and Immigration) Act 2024. At the time, a good number of Committee members, including me, had yet to be elected, but reading the debates really brings home the sense of chaos that had engulfed the Conservative party at the time. The then shadow Home Secretary, now Home Secretary, summed it up:

"What a farce…We have a Prime Minister with no grip, while the British taxpayer is continually forced to pay the price. Former Tory Cabinet Ministers and deputy chairs from all sides have been queueing up to tell us it is a bad Bill. They say it will not work, it will not protect our borders, it will not comply with international law and it is fatally flawed."—[*Official Report*, 17 January 2024; Vol. 743, c. 966.]

A previous Attorney General, the right hon. and learned Member for Kenilworth and Southam (Sir Jeremy Wright), stated that

"to arrogate to oneself the right to declare one's own compliance with international law runs the risk of, first, other states finding comfort in our example and, secondly, undermining our own messages in other situations. That makes this not just bad law, but bad foreign policy."—[*Official Report*, 17 January 2024; Vol. 743, c. 855.]

This is an example of utter chaos. The Law Society, in welcoming the repeal of the Rwanda Act, said in its evidence to this Committee that the Act

"set a dangerous legal and constitutional precedent by legislating to overturn an evidence-based finding of fact by UK courts that Rwanda is an unsafe country to send asylum seekers to."

However, the measure made it on to the statute book. The Rwanda plan ran for two years and, as we know and have heard several times this morning, a grand total of four volunteers were sent to Rwanda at the not insubstantial cost of £700 million to the UK taxpayer—quite a remarkable feat.

While hundreds of millions of taxpayer pounds were sent to Rwanda, the legislation's effect was felt in the UK. As a result of the fantastical Rwanda plan, huge backlogs of asylum claims were building, with tens of thousands of people in hotels unable to leave because of the design of the Illegal Migration Act. We know that the use of hotels does not represent value for money and we are moving away from it. When it comes to the idea of the Rwanda policy being a deterrent, from its inception to the announcement it was to be scrapped, 84,000 people crossed the channel in small boats. It is always difficult to measure a deterrent's effectiveness, but that is a pretty clear indicator that a deterrent it was not.

10 am

An important part of this scrutiny process is that we take the opportunity to hear from witnesses who have valuable expertise in this area. From listening to the oral evidence and wading through the written evidence, we do not have to dig too deep to find out what organisations and individuals think of the Rwanda legislation. We asked about the repeal of the Rwanda Act and the majority of the Illegal Migration Act. At that point, Enver Solomon from the Refugee Council called the Act a "disaster" that caused

"a fundamental meltdown that resulted in the system pretty much coming to a standstill. The system slowed down, with productivity in asylum decision making at its lowest level since the height of the covid pandemic."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 6-7, Q3.]

On the strain that such a system put on public services, he said:

"The number of people in hotels—asylum contingency accommodation, as it is called—reached record numbers. Hotels were being stood up in communities without proper prior assessments with relevant agencies of the potential needs—health, the NHS, and tensions vis-à-vis the police."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 10, Q9.]

The Children's Commissioner also gave evidence and, speaking from children's perspective, stated:

"I am pleased to see the Rwanda Act repealed. Children told me that it would not have stopped them coming; they were just going to disappear at 18. It would have ended up putting them at more risk."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 22, Q21.]

So not good for children, not value for money and a huge increase in the asylum backlog. When it comes to the idea of a deterrent, the evidence suggests it would have been unsuccessful in that regard too. We heard from Professor Brian Bell, who said:

"The numbers are certainly not consistent with a story of a very significant deterrent effect from the Rwanda Act…The cost was staggering for a policy that was very unlikely to have a significant deterrent effect."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 56-57, Q84.]

Professor Bell went on to say:

"My personal view is that getting asylum claims dealt with more quickly would have been a much more effective use of public resources."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 57, Q85.]

I could not agree more. That is what this Government are focused on doing.

The Government have transferred staff and resources from the failed Rwanda scheme. We have refocused our efforts on a new returns and asylum system and Border Security Command, which has boosted levels of returns and enforcement. That, as we heard from my hon. Friend the Member for Dover and Deal, has led to a 24% increase in enforced returns in our first seven months of those who have no right to be in the UK. Some 19,000 people were returned by the end of January, including the four largest return charter flights in our country's history. There has been a 38% increase in illegal working raids and arrests compared with the same period under the previous Government.

There are no more gimmicks. Instead there is investment in a workable system with new structures and resources to smash the gangs that cause so much misery to so many vulnerable people.

Margaret Mullane (Dagenham and Rainham) (Lab): Good morning, Mr Stuart. It was interesting to hear from the hon. Member for Perth and Kinross-shire that he considered the Rwanda scheme a crackpot scheme. Another opinion is that it was "un-Conservative and un-British"—the opinion of John Major, the former Conservative Prime Minister. We have to acknowledge that the basic principle of this Bill is to address the failures of past legislation. Indeed, the Minister explained during an earlier debate that it is not possible to make the suite of legislation involved in the Safety of Rwanda Act and the Illegal Migration Act work together coherently. Not to repeal the Safety of Rwanda Act would undermine confidence in the credibility of the Bill. We are moving away from reliance on expensive gimmicks, hotel use,

[Margaret Mullane]

the flaw that is the Rwanda Act, with its price tag of £700 million of taxpayers' money, and failure to effectively process the people arriving on our shores. Do we really believe that clinging to a piece of dead legislation is the way to protect our borders and put the safety of our country in focus and at the front?

Tom Hayes: May I start by saying that it is a pleasure to serve under your chairpersonship, Mr Stuart? I am particularly enjoying the opportunity to have these debates in a free-flowing way—while sticking to parliamentary etiquette, obviously.

I commend the hon. Member for Stockton West, with whom I have some sympathy. He has been sent here to defend the impossible. I half wondered, when he came in wearing that fetching yellow tie, which I slightly covet, whether he had come to hold his hands in the air, make an apology and perhaps stand on the side of classical liberalism, but no: he stood true to the 2024 manifesto on which he was elected. I hope that in addressing how he would define a deterrent, I will add something new. When I asked him for a definition, he said that a deterrent would prevent people from coming and that it would do so by detaining and removing them. I shall make a case that challenges his assumptions on that basis.

A deterrent is a strategy aimed at preventing external actors, targets and adversaries in the military sense from taking unwanted actions. For the Rwanda asylum policy to be a deterrent, the Conservative Government would have needed to achieve certain things: to maintain the capabilities required to deter and be highly resolved to deploy them—as the hon. Member said, to be able to detain and remove—and to effectively communicate their resolve to act. In any communication, one needs to be understood to be highly resolved and capable of following through.

For the Rwanda asylum policy to be a deterrent, the Government would have needed to persuade potential migrants of their capabilities and resolve to send them to Rwanda to process their claims after they had illegally entered the country, and to have stopped migrants from paying significant sums of money to smuggler gangs facilitating illegal migration. In short, from what the hon. Member said, it feels as though the principal target of deterrents was migrants. The Rwanda asylum policy was always doomed to fail on those key conditions, because it was not able to achieve detention or removal.

On detention, Professor Brian Bell, the chair of the Migration Advisory Committee, told us that the numbers given by the Government

"are certainly not consistent with a story of a very significant deterrent effect from the Rwanda Act."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 56, Q84.]

Dr Peter Walsh of the Migration Observatory cited concerns about

"where people would be detained",—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 14, Q13.]

as the UK immigration detention system had capacity for only 2,200 people, with roughly 400 spaces free. Moreover, he said that Rwanda would struggle to process more than "a few hundred" asylum claims a year.

That takes me to the question of removal.

Dame Angela Eagle: Does my hon. Friend realise that the detention estate was used by the Conservative party to empty some prison places and try to relieve pressure there? I think it highly unlikely that there would be even 400 spaces.

Tom Hayes: I thank my hon. Friend for that important reminder that when the Labour Government took office after our historic win, we inherited an awful mess in our prison system, which was described by independent experts and organisations as near to collapse—so near that there were just a few hundred spaces left at a time when the country was rioting.

Chris Murray: Is my hon. Friend also aware that under the previous Government, the Home Office tried to secure additional detention estate for asylum seekers but catastrophically failed to do so? For example, at Northeye, they spent hundreds of millions of pounds to secure the site—far more than the previous owners had paid—yet found that it had contaminated ground and could not be used, and the Bibby Stockholm in Dover closed very swiftly after opening.

Tom Hayes: I thank my hon. Friend for those important points. In fact, the Bibby Stockholm was moored just off a place near my constituency in Dorset. I thank my hon. Friend the Member for South Dorset (Lloyd Hatton) for campaigning so quickly and efficiently to have the Bibby Stockholm closed, and I thank the Government for responding so constructively to that request. I agree with my hon. Friend the Member for Edinburgh East and Musselburgh about how we have seen significant challenges to the state's ability to detain. As a consequence, in one of the two conditions set out by the hon. Member for Stockton West for an effective deterrent, it is clear that the Conservative Government failed.

For the next component of an effective deterrent—removal—we need only look at the ultimate proof: who went to Rwanda? What deportations actually happened? I can anticipate some of the ways that the Conservatives may challenge that, so I would like to take them on. First, they may blame this Labour Government for cancelling the policy, without also saying that the Conservative party controlled the timing of a general election that they seemed certain to lose. That they believed they were certain to lose is perhaps why they called the election before they could begin deporting asylum seekers to Rwanda. In fact, the first flight was set to take off on 24 July. If the Conservatives had delayed the Dissolution of Parliament by just 20 days, to 19 June rather than 30 May, the first planes could have taken off.

The last Prime Minister could have waited out those 20 days, if he did not have anything else to do. With a zombie Government that were not showing any ambition, if he had wanted to show ambition, he could have spent a nice 20 days watching all 90 hours of the TV show "Lost". If he wanted to go at a more leisurely pace—and the Conservatives were excelling at going at a leisurely pace—rather than binge watching something, he could have watched all 30 hours of the TV show "Stranger Things". Instead—and this is where the "ba-dum" comes in—the Government manifested signs of being lost, and the last Conservative Cabinet just comprised stranger things.

Dame Angela Eagle: Elegant.

Tom Hayes: I thought I would to and find a moment of humour in the dispiriting debate on this topic.

The Conservatives may progress to blaming successful legal and judicial challenges to the policy. The Rwanda policy was, as my hon. Friend the Member for Dover and Deal said, unlawful and deemed to be so by the courts. If they do, His Majesty's Opposition should confirm whether they respect the independence of our judiciary in adjudicating such challenges on the one hand, and respect the international human rights laws, under which challenges were made and were successful, on the other. That is important, because one of the hallmarks of the new Government is to be lawful and to respect our judiciary. We need to embrace that change. The Opposition could also reflect on the probability of further legal challenges being undertaken because of the human rights concerns about Rwanda, which my hon. Friend highlighted so effectively.

Last, the Conservatives may want to blame political challenges for undermining the credibility of their Rwanda asylum policy. In a democracy, it is of course right that Members of Parliament raise concerns on behalf of their constituents—indeed, that is what we have been doing—but the Conservatives overcame those political constraints by passing the Safety of Rwanda Act to address judicial concerns, and they signed a legally binding agreement with Rwanda. So the idea that the deterrent was not able to function because of legal or political challenges is actually farcical, because the previous Government held the cards in their hands.

I have heard it said that the Conservatives could have followed the Australian asylum policy, which has been described as a successful model—perhaps it even inspired the Rwanda asylum policy—but there is good reason to believe that UK could not have achieved the deterrent effects of the Australian offshore asylum processing model. Indeed, Professor Brian Bill, chair of the Migration Advisory Committee, said in oral evidence that it was inappropriate to draw comparisons between the Rwanda scheme and the Australian policies.

Were we to be generous and accept the view of the hon. Member for Weald of Kent that the Australian policy stood out in the world as being successful, there would be challenges to assessing the efficacy of that policy. As the Migration Observatory at the University of Oxford, an expert and independent institution, has said, there is no compelling evidence to suggest that the Australian offshoring policy was the reason for a drop in numbers of people going to Australia. Put bluntly, if migrants were paying attention to the last Government's policy, they had no reason to believe that they would be barred from staying in the UK.

That takes me to my third and final definition of what would make an effective deterrent. Yes, the state must be understood to be highly resolved to deter, detain and remove, and capable of doing so, but it takes two to tango. Britain can only be understood if asylum seekers are able to understand, which in turn depends on several key factors. It means migrants being able to do at least three things: to pay close attention to the last Government's actions—I struggled to do that, so I cannot see how asylum seekers would—to stay fully informed about the many twists and turns in the Safety of Rwanda Act asylum policy, which again I struggled to stay abreast of, and to behave as rational actors who weigh up the costs and benefits of action.

We have heard in testimony and oral evidence that migrants are typically unaware of Government policy and actions, because they are too busy being asylum seekers and migrants. Moreover, it can be said that there are reasonable grounds to believe that the chaotic and difficult circumstances that they are forced to inhabit prevent them from being the rational actors that they would otherwise be, calmly and objectively assessing the trade-offs between the perceived costs of illegal entry, the probability of those being incurred, and whether those are outweighed by the potential benefits of migration.

10.15 am

If we are querying the ability of the asylum seekers seeking to come to the UK to behave rationally, it is also right to assess whether, in fact, the last Government were acting rationally themselves. As Professor Brian Bell said, the Rwanda policy was a product of

"a problem in the Home Office at the time: there was little rational thinking about what the costs and benefits of different policies were."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 57, Q85.]

Finally, it is worth ruminating on the additional emotional reasons why a migrant considering an illegal and dangerous crossing might be motivated to embark. As we heard in oral evidence, our country exercises a strong pull effect on migrants seeking a new life, which means that they may be willing to pay smugglers large sums of money for dangerous crossings. Here I commend my hon. Friend the Member for Edinburgh East and Musselburgh, who has repeatedly made the point throughout our sittings that demand is inelastic, so we need to find a way of addressing that particular nature of the demand.

Given that, I wanted to pick up a point that the Minister summed up well on Second Reading. Conservative Members started off by saying that all they had to do was talk about the Rwanda scheme, and it would be a deterrent. Then it was, "Once we have put it on the statute book, it will be a deterrent." Now, all of a sudden, they are saying, "Oh well, it never worked because not a plane took off."

The Minister was right. Just talking about a scheme does not create a deterrent effect; the number of people taking the channel route did not fall following the policy's announcement, according to a 25 July Q&A by Peter Walsh of the Migration Observatory. Putting it on the statute book does not create a deterrent effect; 84,000 people crossed the channel from the day the policy was announced to the day it was scrapped by the new Government. Last, as I have outlined, the deterrent effect was never going to work because planes did not take off under a Conservative Government and were never going to. As Dr Walsh said in the Q&A that I cited earlier:

"If only a few hundred asylum seekers were sent to Rwanda…as suggested by the Deputy Prime Minister and the Home Office's modelling…the probability of a person crossing the Channel in a small boat being sent to Rwanda would have been… around 1–2%."

The costs of this fiasco are extraordinary. The Conservatives lost control of our borders. They made our asylum and immigration system dysfunctional. Their

plans did not work. More than 84,000 people crossed the channel between the announcement of the scheme and its scrapping. An eye-watering £700 million of taxpayers' money was haemorrhaged on a system that the Conservatives knew could not work and that did not work. For three years, they invested and poured all their energies, all their time and all of this country's focus on asylum and immigration into the failed Rwanda gimmick, instead of focusing on the source of the small boats problem: the organised criminality behind the highly lucrative trade in people smuggling.

That is why I commend this new Labour Government's new border security Bill; it will put right what the Conservative Government got so wrong and, unfortunately, continue to defend today. It will strengthen border security that was weakened and undermined by the last Government, bring in counter-terrorism-like powers, strengthen international co-operation, and co-ordinate and command so that everybody, in every part of our system, is pulling in the same direction: going after the criminal gangs that are the source of the small boats problem.

As Martin Hewitt, the Border Security Commander, says, there is no "simple answer" to stopping the small boat crossings. We need a toolbox that is filled with tools. To co-ordinate is to command and to disrupt is to deter. That is what this Bill will do, and in so doing it will, thankfully, replace the failed Rwanda gimmick.

Kenneth Stevenson (Airdrie and Shotts) (Lab): It is a pleasure to serve under your chairship, Mr Stuart. I rise to put on the record my support for the Government's decision to repeal the Safety of Rwanda Act. It is important to remember that this Act was passed by a Conservative Government who knew that they were on their way out—a Government who had run out of road and run out of ideas. The Safety of Rwanda Act was nothing more than a gimmick, as has been pointed out many times this morning. It was a waste of taxpayers' money and only reaffirmed the widely held view that the Conservative Government had lost control of our borders.

The Bill brought forward by the Labour Government aims to tackle an extremely challenging issue—one made far more challenging by the incompetence shown by the previous incumbents. It marks a welcome shift from wasting taxpayers' money on projects such as the Rwanda scheme to a plan that genuinely aims to smash criminal gangs and stop small boat crossings at the source, with a consistent approach of respecting the vulnerability of the human lives involved. That is why we must reject Conservative attempts to continue their failed schemes.

For those now in Opposition, one would have thought the lessons of July last year were to look outwards, consider what went wrong and reassess their positions on key matters such as immigration, but clearly, they are carrying on as they have done for years, insistent on making the same mistakes that cost the public purse millions that could have been spent on supporting the working people of the United Kingdom. I reiterate my support for the repeal of the Rwanda scheme and look forward to supporting this Government's plans for restoring control to our borders and delivering on the priorities of the British people.

Chris Murray: It is a pleasure to serve under your chairship, Mr Stuart, especially after we have had such an interesting debate with some very thoughtful contributions. I will respond to some of the issues that have been raised.

My hon. Friend the Member for Bournemouth East mentioned that I keep quoting Peter Walsh, and I am going to again, because the point he made in the evidence sessions was one of the most critical points on immigration policy in Britain overall. He said that demand for Channel crossings is "fairly inelastic". The demand will not wax and wane hugely in response to Government policy, which tells us that deterrence will have only limited use. That is the conceptual flaw at the heart of the Rwanda plan. It put all the country's cards and money on a deterrence-only approach. Deterrence has to be real and believable, which the scheme clearly was not.

I listen closely to what the hon. Member for Perth and Kinross-shire says about the role of deterrence in migration policy. The exchanges we are having are helping to clarify the thinking. It is clear from the Bill that deterrence can only ever be a component. We must focus on the supply—the ability for people to cross the Channel—and not just the demand. That requires the measures in the Bill, but also diplomatic work and upstream work.

The repeal of the Rwanda legislation was inevitable and written in the stars from the very beginning of that hare-brained scheme. Before it passed, the European Council on Foreign Relations said that the scheme was doomed to failure and a "floundering disaster", because it was unlikely to deter illicit migration, it would damage the UK's standing in international law, it would endanger refugee lives and it would come at huge financial cost. Every single one of those predictions came to pass, so it is no surprise that we are having to deal with this today. I would also say that it presaged the Conservatives going down in an historic election defeat, so it was clearly a failure politically for them as well.

On the point about removal to third countries, before we left the European Union, the UK had the capacity to remove people to safe countries in the EU that they had travelled through. The Conservatives manifestly failed to avail the country of that power we had, and then failed with the Rwanda system. Clearly, the Conservative track record on third countries is very poor. There is a component in the immigration system for people going to third countries when they have no right to stay here, which is something we need to look at further ahead.

The hon. Member for Stockton West made reference to the Albania relationship and returns increasing to Albania, as if that somehow proves that the Rwanda scheme would have worked if we had just let it take its course, but it is a completely spurious parallel. The returns to Albania happened before the communiqué was signed with Albania, so the two are not related—perhaps he was arguing that the prior readmission agreement was the variable that led to the increase, but it came after the spike, so it cannot be held responsible. The Albania agreement was not just about illegal immigrants; it also included a huge number of foreign national offenders—a different group of people entirely. It was also about people from Albania returning to

Albania, not third-country nationals. The idea that the Albania scheme is somehow an alibi for Rwanda can be completely rejected.

That is not actually the point, however, because the Rwanda scheme would never have worked at the scale required, even if it had been able to work at all. The Minister was correct when she talked in her initial remarks about the interaction between the Illegal Migration Act and the Safety of Rwanda Act. That meant that nobody was getting processed, so the country ended up with a perma-backlog of asylum seekers with nowhere to go; they could not return to the country they came from through a voluntary returns agreement or be recognised as refugees. The Rwanda scheme would never have worked at a meaningful scale, and it would never have been able to deal with the backlog. We were on track to having to take over half the hotels in the country to accommodate asylum seekers.

We can have a debate about how best to manage an asylum system—voluntary returns, swift processing, meaningful decisions and removals are clearly components of that—but we can surely say in debating this clause that the Rwanda Act was not the solution. Some £240 million of our constituents' money was wasted on the scheme, which the hon. Member for Perth and Kinross-shire was quite correct to call "crackpot". Passing legislation to assert that reality is not what it is will never be an effective way to govern anything, never mind the asylum system, so I am pleased that the Act will finally be off the statute book.

Dame Angela Eagle: We have had an interesting debate about taking the Safety of Rwanda Act off the statute book, as clause 37 does. I am distressed that the Conservative party continues to assert without evidence—in fact, contrary to most evidence—that that Act and the Illegal Migration Act were about to work. Apparently, those Acts were on the cusp of being a great success when the evil new Government came along and cancelled them.

I speculate that many Conservative Members are secretly pleased that they can assert that, because it gets them out of an embarrassing, expensive farrago; the Safety of Rwanda Act will go down in this country's history as one of the most catastrophic pieces of legislation that Parliament has ever dealt with. As my hon. Friend the Member for Dagenham and Rainham rightly pointed out, it was not ordinary or normal for Conservative ex-Prime Minister John Major to pronounce the Act to be "un-Conservative". The Act is many things, unconservative being one of them.

Government Members, and the hon. Member for Perth and Kinross-shire, assert that the Act was not a deterrent. This is the current discourse: we are saying that it was not a deterrent and that we can prove it, and the Conservative party, which was responsible for the Act, is left asserting that it was a deterrent, despite there being absolutely no evidence for that despite all the years since the policy was announced and all the years the Act was on the statute book.

That reminds me of discussions I used to have as a student—a very long time ago—about whether communism in its pure sense had actually ever existed. It was obviously a failure, but when one came across the ideologues, they simply asserted that the communism that had been tried to date just was not pure enough, and it was therefore still likely to succeed if ever it was tried properly. Does that sound similar to the discussions we are having about this iteration of fantasy asylum policy as gimmick? I think it does.

10.30 am

What we are now close to hearing from the Opposition is that Rwanda has not been tried properly, even though it has wasted £715 million of taxpayer money, and that somehow it was just about to work, but then the dastardly new Government were elected—by a landslide, it has to be said—and stopped this policy, which was inevitably going to work, even existing. That is arrant nonsense, and I am disappointed to hear the Conservative party, from its berth in Opposition, continuing to spout it.

There is no evidence that the policy worked, was beginning to work or would have ever worked, as many of my hon. Friends pointed out. It was not a deterrent. It was a catastrophic waste of taxpayer money, and it risked our reputation as a country that respects the rule of law internationally. It would have had—in fact, it had begun to have—many consequences for our reputation and ability to influence other powers.

Let us look at the costs that were published for the scheme. A breakdown of Home Office costs for the migration and economic development partnership with Rwanda was published on 2 December 2024. The then Government were going to pay £150,874 per individual sent to Rwanda. The Government of Rwanda only ever agreed to take 300 people, but 84,000 people crossed the channel while the Conservatives were talking about the Rwanda scheme. One does not have to be much of a mathematician to understand how much it would have cost to deport large numbers of people if we had had to pay £150,874 for each person deported over five years.

Had it been possible to deport those people, and had Rwanda agreed to take more than 300, it would have cost a fortune, and that is without considering about all the extra IT that had to be designed and the cost that had to be written off for that. New detention accommodation would have been required, as we have only 2,500 detention spaces at the moment, though the Government are building more so that we can bring some integrity back to our system with enforced returns. We certainly would not have had anywhere to put 84,000 people pending their deportation to Rwanda. I also do not know where the detention camps were going to be, who was going to guard them or what it would have cost to escort that number of people out of the country to somewhere else.

On top of that, we have had to place sanctions on the Rwandan regime for its involvement in M23's incursion into the Democratic Republic of the Congo and the displacement of nearly 1 million people in that area. I do not know whether, in the fantasy world that some Opposition Members seemingly still inhabit, every part of Rwanda will always be safe because at one point we asserted legislatively that Rwanda was a safe place. There are many flaws in the way that the legislation was conceived, enacted, put on the statute book and never operationalised, and events continuing to happen may well have impinged on it too.

Matt Vickers: I have asked this question a few times and never quite got to the bottom of it. We were sending people to Rwanda who could not be returned

[Matt Vickers]

to their home country because it was not safe. Where will those people go now, if not Rwanda? Does the Minister fear that, as the hon. Member for Perth and Kinross-shire said, the Government might end up coming back to this issue in a few years when they realise that things are continuing to go the wrong way?

Dame Angela Eagle: First things first: the hon. Gentleman was not going to send to Rwanda only those whom we could not return to their own country; in theory, he was going to deport to Rwanda absolutely everybody who arrived to claim asylum after March 2023—that was what we were told. In reality, those people all ended up in hotels, unable to be processed and growing in number, while the Conservative party indulged in its expensive gimmicks and fantasies of how the world should be.

As many Committee members have pointed out, the day job was not being done while that parallel universe policy was being developed. It took all the attention away from running what is a complex enough system as it is. Many resources were diverted to try to create that new reality, resulting in the neglect of the system, and huge backlogs were built into the system because of how the Illegal Migration Act interacted with the Safety of Rwanda Act. That made it impossible to run the current system or to move to a new system that was remotely workable, thereby landing this country with a huge, dysfunctional series of backlogs, and a system that we have had to literally start up again from scratch to try to get working coherently.

Pete Wishart: The Minister may have been coming on to the second part of the question asked by the hon. Member for Stockton West, but will she be brave enough to tell the Committee that this Labour Government will never consider sending asylum seekers and refugees to a third country?

Dame Angela Eagle: The Home Secretary has said that she does not rule out third country processing; that is not the same as the Rwanda scheme, which was deportation to a third country permanently. I think the hon. Gentleman is talking about third country returns, such as reviving the Dublin system. When the previous Government negotiated the EU withdrawal agreement, they perhaps should have included something about returns to Europe. Had they done so, perhaps we would be in a different situation, but those would also have been third country returns. He asked a wide-ranging question, and I have been as honest as I can in answering it at this point.

We could spend all day, and probably many more days, talking about the failure encompassed in the interaction of the Safety of Rwanda Act and the Illegal Migration Act. Our job today, though, is to tidy it up. Clause 37 will take the Safety of Rwanda Act off the statute book and put it in the dustbin of history, where it belongs.

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

The Committee divided: Ayes 11, Noes 3.

Division No. 8]

AYES

Botterill, Jade	Hayes, Tom
Eagle, Dame Angela	McCluskey, Martin
Gittins, Becky	Mullane, Margaret
Murray, Chris	White, Jo
Stevenson, Kenneth	
Tapp, Mike	Wishart, Pete

NOES

Bool, Sarah	Vickers, Matt
Lam, Katie	

Question accordingly agreed to.

Clause 37 ordered to stand part of the Bill.

Clause 38

REPEAL OF CERTAIN PROVISIONS OF THE ILLEGAL MIGRATION ACT 2023

The Chair: The Liberal Democrat spokesperson is not here to move amendment 9, so we move to clause 38 stand part.

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

The Chair: With this it will be convenient to discuss new clause 2—*Repeal of the Illegal Migration Act 2023*—

"The Illegal Migration Act 2023 is repealed."

This new clause would repeal the Illegal Migration Act in full. In combination with Amendment 8 to leave out clause 38, it would replace the selective repeal in the Bill with a full repeal.

Dame Angela Eagle: As always, the Lib Dems are keeping us on our toes. I hope there is a benign reason why they are not in attendance today—perhaps my horrible cold made its way over to them and they are not well.

Clause 38 repeals the vast majority—not all—of the Illegal Migration Act 2023. We decided not to take a blanket approach to repealing it all, and we will have that debate when the hon. Member for Perth and Kinross-shire speaks to new clause 2. He has given us the choice whether to repeal the Illegal Migration Act as a whole. Our view, which I will explain in response to his speech, is that there are a few useful clauses in the Act that we have decided to keep on the statute book.

In general, we all know that the Illegal Migration Act was a flawed piece of legislation that made it impossible for us to process and run asylum claims. It was on the statute book in the context of the Safety of Rwanda Act, which assumed that anyone who arrived after March 2023 would not be allowed to become part of an asylum claim in this country. It contained the so-called duty to remove, which placed a statutory duty on the Home Secretary to remove everyone who came to this country after that time. It was flawed in many ways, but it made it impossible for us to run asylum claims in this country lawfully. Therefore, it is important that the vast majority of this flawed legislation should be removed from the statute book, and that is what clause 38 does.

I will set out in detail why we have decided to keep six clauses of the Act. I will try to explain to the hon. Member for Perth and Kinross-shire and the rest of the Committee our thinking behind each case, but I will do so when the new clause has been spoken to.

Matt Vickers (Stockton West) (Con): Clause 38 repeals sections 1 to 6 and schedule 1, sections 7 to 11, sections 13 to 15 and schedule 2, sections 16 to 28, sections 30 to 5, sections 53 to 58, section 61 and section 66 of the Illegal Migration Act.

Section 2 of the Illegal Migration Act placed a duty on the Home Secretary to make arrangements to remove persons to their home country or a safe third country who have entered or arrived in the UK illegally. Let me point out to those people who are concerned about genuine asylum seekers that section 2(4) of the IMA makes it clear that the provision does not apply if someone comes directly from a place of danger, which is consistent with article 33 of the 1951 refugee convention. However, people who come here directly from France, a safe country where no one is being persecuted and which has a perfectly well-functioning asylum system, should not illegally enter the United Kingdom.

I ask the Minister why the Government are repealing this duty. Is it because they do not think they are able to remove those who have arrived illegally? Is it because the Government think people who arrive in this country illegally should be allowed to remain?

Section 5 of the Illegal Migration Act provides that asylum claims are automatically deemed inadmissible for those who have arrived illegally. One of Labour's first actions in government was to allow illegal migrants to claim asylum. Can the Minister explain how allowing illegal migrants to claim asylum is providing any deterrent? Surely it will help the smuggling gangs, by providing a stronger incentive for people to make those dangerous crossings of the Channel in small boats.

Tom Hayes: The Illegal Migration Act, which we are discussing under this clause, was put on the statute book by the previous Government, but they did not commence much of it at all. Can the hon. Member explain why that was?

Matt Vickers: There is a lot to do in the way of commencement; the Bill is there and could be commenced at any time, if the Government felt it was of help. In fact, in a few years' time, when they come back to the drawing board to try to find a deterrent, they might well want to do that.

Sections 31 and 32 of the Illegal Migration Act prevented people who have entered the country illegally from obtaining British citizenship. The Labour Government are repealing this provision. Their position is hardly surprising when the Prime Minister does not think that British citizenship is a pull factor, but that does not mean it is the right thing to do. Why are the Government repealing this clause, allowing illegal migrants to get British citizenship?

Do the Government not believe that British citizenship is a privilege rather than a right, especially for those who have entered the country illegally? If so, why have the Government not included measures to stop illegal migrants obtaining British citizenship, and instead only issued guidance stating that

"applications made after 10 February 2025 that include illegal entry will 'normally' be refused citizenship, regardless of when the illegal entry occurred."?

Section 58 of the Illegal Migration Act states:

"The Secretary of State may make regulations about the effect of a decision by a relevant person ("P") not to consent to the use of a specified scientific method for the purposes of an age assessment…where there are no reasonable grounds for P's decision."

This means that, if a migrant refused to undergo an age assessment, they would be considered an adult. Labour have removed age assessments for illegal migrants who claim to be under 18, resulting in the risk that grown men may end up in schools with teenage girls. In fact, the most recent data on age disputes shows that more than 50% of migrants claiming to be under 18 were actually adults. How do the Government therefore intend to ensure that migrants claiming to be under 18 actually undergo age assessments, and why is that not included in the Bill?

The SNP's new clause 2 would repeal the Illegal Migration Act entirely, so the SNP must be agreeing with the Labour Government that illegal migrants should be able to get British citizenship and should not have to undergo age assessments. Therefore, I ask the same questions: does the SNP not believe that British citizenship is a privilege rather than a right, especially for those who have entered the country illegally? How would the SNP ensure that migrants claiming to be under 18 actually undergo age assessments, and why is that not included in new clause 2?

By repealing the Illegal Migration Act in its entirety, the SNP want to stop the seizure of mobile phones from illegal migrants, something that helps to establish identities and obtain evidence of immigration offences. As Tony Smith said:

"Passport data, identity data, age data and travel history data are often held on those phones—all data that would be useful when considering an asylum application."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 40, Q43.]

The Liberal Democrats' amendment 9 would have repealed section 29 of the Illegal Migration Act, which requires the Secretary of State to remove people who have sought to use modern slavery protections in bad faith. Do the Liberal Democrats think that people using modern slavery protections fraudulently should be allowed to stay in the UK? If so, do they believe that people who make fraudulent immigration claims should be allowed to stay in the UK? We believe that the effect of repealing the majority of the IMA and the entirety of the Safety of Rwanda Act will be an increase in the number of people arriving in this country illegally and remaining.

I have therefore asked the Government whether they would be prepared to be transparent about the numbers. If they are convinced that the approach set out in the Bill will be successful, let us measure it. Will the Minister commit to publishing all the numbers, and the nationalities, of all those who might have been excluded from the UK asylum system on grounds of connection with a safe third country or a late claim, but have not been—with reasons why not—and to setting out the obstacles to returning them to their country of origin and what steps are being taken through international agreements to overcome that, as recommended by Tony Smith in evidence to this Committee? We will oppose the inclusion of this clause in the Bill by way of a Division.

Pete Wishart: I must say to the hon. Member for Stockton West that he really does not want to know my views on British citizenship, because they are likely to blow his head—but we will leave that one at that.

[Pete Wishart]

It is disappointing to note the absence of our Liberal colleagues. Back in the day—the good old days, Mr Stuart—when we had an effective, efficient, diligent and conscientious third party, there would always be someone present to ensure that the views of the third party were represented. I am sure that the Liberal Democrats have good excuses, but I hope they start to take a bit of interest in this important Bill, because it has been disappointing thus far.

I say to the Minister, "'Useful clauses?' Come on!" We are talking about sections 29, 12, 59, 60 and 62, some of the nastiest and most pernicious parts and aspects of the Illegal Migration Act. I cannot believe that this Government want to continue that horrible and heinous Tory set of proposals and clauses in this Bill. This was their great opportunity to wipe the slate clean of the previous Government's hopeless and useless crackpot Rwanda scheme and their heinous and horrible Illegal Migration Act.

I will give the Minister a few quotes from some of her colleagues, some of which I wish I had come up with myself. The now Prime Minister said at the time that the Illegal Migration Bill would drive "a coach and horses" through protections for women trafficked to the UK as victims of modern slavery. The now Home Secretary said that that IMA does the "total opposite" of providing support for those who have been trafficked, and that it was nothing other than "a traffickers' charter". There are other prize quotes from the Home Secretary and various Ministers within the Home Office—absolutely and totally correct, right and true—about the horrible Illegal Migration Act. Now we have a Labour Government inconceivably standing by large swathes of an Act that they so rightly and widely rubbished and wanted rid of only a short while ago.

It would be different if the Government were maintaining some benign, useful or helpful parts of that Tory Act, but they are maintaining some real, pernicious nasties. Provisions that were damaging, dangerous and contrary to human rights under the Tories are just as damaging, dangerous and contrary to human rights under this new Labour Government. I remind the Minister what the then Home Secretary said on that Bill when introducing it:

"I am unable to make a statement that, in my view, the provisions of the Illegal Migration Bill are compatible with the Convention rights, but the Government nevertheless wishes the House to proceed with the Bill."

The previous Government could not care less about our obligations under international law or about human rights, and they were quite happy to set them aside. Now we have a Home Secretary who stands by certain provisions of that Act, with all its difficulties concerning its relationship with convention rights.

Dame Angela Eagle: The hon. Gentleman will have noted on the front of the Bill that we are debating the statement from the Home Secretary on the European convention on human rights:

"In my view the provisions of the Border Security, Asylum and Immigration Bill are compatible with the Convention rights."

Pete Wishart: I am glad that the Home Secretary stated that, as she always does when it comes to our relationship with, and compatibility with, human rights. I want to raise a couple of issues and ask a couple of questions about just how very loosely this Bill is connected with the Government's obligations and about some of our real concerns on human rights. I will come to that in the course of what I hope will be a short contribution.

It is completely incomprehensible that the Government have chosen to repeal only some aspects of the IMA rather than the whole Act, particularly since so many members of this Government have been so vocally opposed to the IMA in the past. Can we please just have a look at some of the stuff that they want to retain? The one that concerns me most, and the one that concerns the range of organisations, groups and charities associated with refugees and asylum seekers, is the retention of section 29.

Let us remind the Committee what section 29 does. It extends the public order disqualification originally introduced by section 63 of the Nationality and Borders Act 2022 and mandates that victims of trafficking and modern slavery who have criminal convictions or are considered a threat to public order be disqualified from support and protection. To me, that provision is deeply concerning, as it means that victims of trafficking, many of whom have been coerced into committing crimes as part of their exploitation, could face detention, deportation or removal rather than the support and recovery that they need.

Mike Tapp: Is the hon. Gentleman aware that, prior to section 29 coming into law, Home Office figures show that up to 73% of foreign national offenders were using modern slavery as a means to avoid deportation, which could in turn put members of the public in danger?

Pete Wishart: I do not know where the hon. Member gets his figures, but let me give him some in return. Home Office statistics from 2024 revealed that 70% of the individuals disqualified under the provision had elements of criminal exploitation in their case. What is so wrong about this particular measure is that it stops us giving the necessary and relevant support that we should give—that we owe—to people who have been victims of human trafficking.

Mike Tapp: Does the hon. Gentleman also realise that under compelling circumstances, if there is evidence that they have been victims of modern slavery, those who have been convicted and apply will fit into the system?

Pete Wishart: This is where we start to get back into very uncomfortable and dangerous territory, where it is going to be up to the individual to prove that they are not guilty of such crimes. This is a blanket clause that will entrap them and leave it to them to make their way through the courts to prove their innocence when they have been innocent all the time, or particularly when they have been victims of trafficking and forced into criminal activity. The system could punish vulnerable individuals who were coerced into committing crimes, often by their traffickers, thus reinforcing the power dynamic that allows traffickers to exploit their victims further.

The retention of section 29 increases the likelihood of re-trafficking and re-exploitation as victims might fear coming forward to the authorities due to the threat of

detention, removal or criminalisation. That has issues for us in Scotland. Quite rightly, I suppose, immigration is totally and utterly reserved, but we have responsibility under our devolved powers to ensure that victims of modern slavery who come to Scotland are looked after and tended to by Scottish legislation. There are powers that we have within Scotland.

In retaining section 29 of the IMA, the Bill also restricts the ability of the Scottish Government to support the victims under the Human Trafficking and Exploitation (Scotland) Act 2015. The Scottish Act places a duty on Scottish Ministers to secure immediate support and recovery services for victims of human trafficking and exploitation. In Scotland we have tried to design a system that, unlike this Bill, places an emphasis on victim care and rehabilitation.

That is the approach that we take in Scotland, and that is what we want to try to deliver within our range of devolved power, but it relies on the national referral mechanism identifying and supporting victims of trafficking. The disqualification provisions in section 29 could result in vulnerable individuals in Scotland being detained or deported without being properly identified and supported as trafficking victims, thus weakening the Scottish Government's ability to implement their own modern slavery protections.

11 am

Then there is the retention of section 59, which makes asylum and human rights claims from a range of countries inadmissible. I do not know how the section is considered to be useful, but I would be interested in the Minister's views.

The Bill introduces worrying new measures that expand the scope of immigration offences and the Government's ability to detain migrants. Although the Council of Europe convention on action against trafficking in human beings has not been entirely incorporated into UK law, some of its obligations were implemented by the Modern Slavery Act 2015—do you remember that Act, Mr Stuart? It was seen as a landmark achievement and as pioneering legislation, but it has now been hollowed out, with survivor protections restricted, undermined and effectively erased by legislation such as this.

Section 12 of the IMA enables the Executive to decide the lengths of all forms of immigration detention; it intends to overturn an established common-law principle that provides for judicial oversight over the length of detention as an important safeguard against arbitrary detention. The section is to be retained, so that principle will go.

Section 59 of the IMA extends the current general inadmissibility process for asylum claims from nationals of EU member states, including Albania, which we have debated at length in Committee so far. India and Georgia were added by the prior Government, despite concerns about their general safety. Section 59 will be retained despite the fact that the UK's country policy information on Albania notes issues with trafficking and sexual or criminal exploitation, as well as people being targeted on the basis of sexual orientation. Similarly, in recent months Georgian officials have been the subject of UK sanctions for a brutal crackdown on media and protesters. Now people from those countries will not be able to secure any rights in the UK.

Section 60 of the IMA, rather than introducing the new safe routes that are so urgently required, places a duty on the Executive to make regulations containing a cap—not a quota, but a cap—on the number of persons who may enter the United Kingdom annually using safe routes. Finally, if that is not enough, section 62 means that if a person making a human rights or asylum claim does not follow the Home Office's instruction to let it look at everything, including private, sensitive information on their phone, the Home Office could take that into account as damaging the person's credibility when deciding whether to believe that person. This provision must also be considered in connection with the new extended powers in the Bill to search, seize and retain mobile devices.

I scoured the Illegal Migration Act for anything that could remotely be described as useful or helpful in smashing the gangs and disrupting their business operations, which are what the Government tell us the Bill—and these Committee sittings—is all about. I could not find one thing. Only with the full repeal of this horrible, harmful Tory Act, and the introduction of stronger protections for victims of trafficking and modern slavery, can we protect the vulnerable, uphold human rights and ensure justice for those who have suffered exploitation and abuse.

Chris Murray: Like the Safety of Rwanda Act clause, this clause is an inevitability, because it was clear from the outset that these sections of the Illegal Migration Act were never going to work. I know that the Conservatives tend to think that everybody who works in the migration sector set out to thwart their plans at every turn, but that is not the case. I was working for the strategic migration partnership in Scotland when the Illegal Migration Bill was introduced two years ago. I remember sitting down with local authorities, the police and other key stakeholders to look at the legislation, and all of us collectively said, "How is this going to work? This is never going to be feasible in reality."

I draw people's attention to one component of the Act that is being repealed, which brings its failure to the fore. The IMA placed on the Home Secretary a duty to remove that applied to all asylum seekers regardless of their case. For anyone under 18, the duty to remove kicked in at the age of 18, but when we were working with local authorities, unaccompanied asylum-seeking children came across and sought asylum in this country. These children are among the most vulnerable people in the world. They have lost their loved ones, they are on their own and they are in a strange country. In the UK, we have a national transfer scheme to disperse them around different local authorities. I worked with the officers who were trying to help those children to get themselves together after a really traumatic experience.

The Illegal Migration Act meant that, at the age of 18, in theory those people would be eligible for immediate removal. What does the Committee think that did to those children in terms of their attempts to secure any services, learn English or get any education? It made it impossible for them and it had a direct impact: they did not leave the country, but they disappeared. Some of them are probably out there being exploited right now, as a direct consequence of clauses in the Illegal Migration Act. The Act did not just put those children at risk; it put incredible pressure on overstretched local services

[Chris Murray]

around the country. For the previous Government to set out to use immigration legislation to put further pressure on overstretched local services was only going to have negative consequences in communities, and it should never have happened.

More broadly, the duty to remove, which this clause repeals, essentially shut down the asylum system and created what IPPR has called a "perma-backlog". We have talked about deterrents and incentives, but I do not see any greater incentive for someone seeking to exploit the asylum system in this country than shutting it down overall, which is what that duty to remove did. It created a vicious circle, which frankly was bad for asylum seekers themselves, because genuine refugees had to spend years in hotel accommodation, which is not a particularly nice thing to do, and for the taxpayer in the UK, because costs soared from £18,000 per asylum seeker per year in 2019 to £47,000 in 2024. It was also bad for communities, because people could not be moved through that process, which clearly put pressure on an already febrile immigration situation. It is good that we are repealing this duty; as I said, it was inevitable, because it was never going to work.

Finally, I understand the points that the hon. Member for Perth and Kinross-shire made about human trafficking. It is really important that we offer the victims of modern slavery proper protections, especially when they are forced to commit crimes in the course of being trafficked. This legislation does not completely take that power away, but again, I have to draw on my experience of the last couple of years. There was an increase in the number of exploiters—those who were perpetrators of trafficking—using the trafficking system to evade prosecution. I worked closely with Police Scotland and the Crown Office, including in the Perth and Kinross council area. We saw, particularly in the Vietnamese community, the growth of that development.

We must not see the world in black and white. I am by no means saying that every victim of trafficking is somehow an imposter and we must stop them getting any protection, but it is happening, so it is proper that we keep the clauses in place so that we can tackle that. If we do not have that component, the system will break down. Just as we saw with the asylum system, if we do not have clauses to make the system functional, it will break down and everybody loses.

Tom Hayes: It is an honour to follow my hon. Friend the Member for Edinburgh East and Musselburgh, who, in an outstanding speech, set out the major challenges with the Illegal Migration Act, part of which will be repealed.

I want to knock on the head four things that were said by the hon. Member for Stockton West. The first was in reference to section 23 of the Illegal Migration Act 2023. That provision, which the Opposition have talked about, was never implemented by the last Government, so in effect he is opposing a repeal of something that his last Government never started. That feels to me like the worst kind of politics. Between the Royal Assent given to that legislation and the Dissolution of Parliament, 315 days passed, yet no effort was made to implement that provision.

Secondly, sections 9 and 10 of the Illegal Migration Act 2023 were, as we have heard, unworkable. They allow people to arrive, claim asylum in the UK, get support, and be put up in a hotel, which as my hon. Friend the Member for Edinburgh East and Musselburgh described, will often be in the some of the most dire conditions that somebody can go through after fleeing some of the worst experiences that people can have, be it trauma, famine, disease or poverty—the list goes on. Applications were not processed, so people were not able to leave their hotel. The consequence of that is not just an expensive asylum backlog, but people living with serious psychological scarring for a significant amount of time.

That brings me to my third point. I will talk more about this when we reach new clause 26, which relates to scientific age assessments, but I really do not know how the Conservative party can talk about the welfare and protection of children when we heard oral testimony from the Children's Commissioner about children who were subject to, and vulnerable to, organ harvesting, rape, sexual assault and disappearance from hotels and into wider society, where, as my hon. Friend the Member for Edinburgh East and Musselburgh said, they are likely to continue to be abused, exploited and victimised. I will make those points when we reach that debate.

Lastly, on the point about France, I wish the Conservative party would stop throwing stones at one of nearest neighbours and most important strategic allies, particularly when we are in such a volatile international climate. It is really important that we properly scrutinise legislation, but do not indulge in the petty politics that defined the last Conservative Government, disrupted so many of our international relations, and actually made us less secure.

Dame Angela Eagle: This has been a small but perfectly formed debate on clause 38, which repeals all but six sections of the Illegal Migration Act. As Government Members have pointed out, despite the amount of time that has lapsed since the Act got on the statute book, the vast majority of its provisions have never been commenced. In fact, we had to commence one tiny bit of it so that we could restart asylum processing; that is probably the most it ever had any effect.

Let us be clear: the Illegal Migration Act meant that thousands of asylum claims were put on hold, because of the duty to remove, increasing the backlog, putting incredible pressure on the asylum accommodation system and creating what has been called the "perma-backlog". We all know what that was, and how big it was when we came into Government. The Act has largely not been commenced, nor will it be under this Government. We need to sort out the chaos created by the unworkable and contradictory provisions in the Act. Despite the bravado of the hon. Member for Stockton West in his earlier contribution, I suspect that most Conservative Ministers knew that the Act was unworkable, because it was not commenced when they had the ministerial capacity and power to do so for all the time between when it was put on the statute book and when we formed a new Government a year later.

The system had been left in chaos but, were the Government to accept new clause 2 and simply repeal the entire Act, it would lead to a missed opportunity to

improve our immigration system. I will go through some of that with the hon. Member for Perth and Kinross-shire. Clause 38 will repeal section 2 of the 2023 Act, which provides for the duty to remove. The Government are committed to ending the migration and economic partnership with Rwanda, so section 2 will be repealed to deliver that by repealing the duty to remove and associated provisions.

On sections 22 to 28 of the Illegal Migration Act, we are not retaining the vast majority of modern slavery provisions in the Act because they are connected to the duty to remove irregular migrants. These sections were never commenced and provided that where a duty to remove was applied for an individual, that individual should be disqualified from the national referral mechanism unless certain limited exemptions applied. We are removing sections 30 to 37 relating to permanent bans on entry, settlement and citizenship, which, while held up as a success by others, were unenforced and unworkable. Sections 57 and 58 of the Act are also repealed. They relate to age assessments, but both sections are unworkable and irrelevant without the duty to remove.

11.15 am

The hon. Member for Stockton West should not go away from today's debate thinking that we are not interested in scientific age assessments. That is not true, but the Illegal Migration Act's scientific age assessment provisions related to the duty to remove, which is being repealed. We can come back to talking about using that kind of technology, but not in this context.

Matt Vickers: Is there any reason we cannot introduce provisions in this area as part of the Bill, and when can we expect to see them?

Dame Angela Eagle: Work is going on in the Department to assess the accuracy of the various methods of age assessment, which ministerial predecessors from the hon. Gentleman's party commenced, but which has not yet been finished. As soon as we have more idea about how reliable scientific age assessment can be, how expensive it is and all those things, I will either come to Parliament or make a statement about how we intend to proceed. The hon. Gentleman must not assume that because these sections have been repealed we are not interested in scientific age assessments and their potential per se. They were simply unworkable because they were attached to the duty to remove, which was such a feature of the Illegal Migration Act.

The six measures that the Government intend to retain, including where provisions are in force, have been identified as having operational utility and benefit. These powers are all ones that the Government see as important tools to allow for the proper operation of the immigration system and to achieve wider priorities alongside the powerful measures set out in the Bill.

The hon. Member for Perth and Kinross-shire talked about section 29 of the Illegal Migration Act. The public order disqualification under the Nationality and Borders Act is currently in operation. It enables decisions to disqualify certain individuals from support and protections afforded by the national referral mechanisms on grounds of public order and bad faith. Public order grounds include serious criminality and threats to national security. Such decisions are made on a case-by-case basis, considering the individual's vulnerabilities. That is the sole modern slavery measure in the Illegal Migration Act that is being retained. It would, if commenced, amend the public order disqualification to allow more foreign national offenders to be considered for disqualification from modern slavery protections on public order grounds. Disqualification will continue to be assessed on an individual basis.

Pete Wishart: I am glad that the Minister got to that last sentence, because it is quite clear from section 29 that victims of modern slavery only have to be considered a threat to public order. It is quite likely that many victims of modern slavery will get caught up in this; in fact, they already have. Is the Minister happy that those who were probably coerced into criminal activity will now almost be blanket-banned from any opportunity to go through the asylum process in the United Kingdom?

Dame Angela Eagle: There will not be a blanket ban. Individuals who have been subject to public order disqualification will have been disqualified for things such as multiple drug offences, possessing a firearm and ammunition, multiple counts of sexual assault and assault by beating, grooming and engaging in sexual communication with a child. Those are the kind of things that currently lead to public order disqualifications. Nothing in the retention of section 29 will mean that individual circumstances on a case-by-case basis cannot be taken into account. It is important to understand that that will still happen. If it were commenced—it has not yet been—section 29 would introduce a duty to apply the public order disqualification, unless there are compelling circumstances that the disqualification should not apply. That still ensures case-by-case consideration.

The citizenship ban is removed from the Bill because it was unworkable and unenforced; that is, again, attached to the duties to remove. We have updated the good character guidance to prevent people from gaining citizenship if they arrived illegally by dangerous journeys. The idea is to emphasise that citizenship is not a right, but a privilege. We will continue to make those decisions on a case-by-case basis.

The other sections that we have retained are thought to be useful. The six measures in section 12 emphasise the right of the Secretary of State to determine what constitutes a reasonable time period to detain a person for the specific statutory purpose of effecting removal from the UK. Section 52 allows flexibility in our judiciary by making first-tier tribunal judges eligible to sit in the upper-tier tribunal. I cannot imagine anyone in the Committee would worry about that.

Section 59, if commenced, would extend the inadmissibility provisions to asylum and human rights claims from nationals in a list of generally safe states. Section 60 requires an annual cap to be set on the number of individuals admitted to the UK by safe and legal routes. Section 62 adds failing to provide information, such as a passcode to an electronic device, to the behaviours that could be considered damaging to the credibility of an asylum and human rights claim. All those issues are thought to provide utility, but outside the context of the duty to remove.

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

The Committee divided: Ayes 10, Noes 4.

Division No. 9]

AYES

Botterill, Jade
Eagle, Dame Angela
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Mullane, Margaret
Murray, Chris
Stevenson, Kenneth
Tapp, Mike
White, Jo

NOES

Bool, Sarah
Lam, Katie
Vickers, Matt
Wishart, Pete

Question accordingly agreed to.

Clause 38 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —(*Martin McCluskey.*)

11.23 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Eighth Sitting

Tuesday 11 March 2025

(Afternoon)

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

not later than

Saturday 15 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, † Dame Siobhain McDonagh, Dr Andrew Murrison, Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 11 March 2025

(Afternoon)

[Dame Siobhain McDonagh *in the Chair*]

Border Security, Asylum and Immigration Bill

2 pm

The Chair: I congratulate everyone on their very prompt arrival.

Clause 39

Sections 37 and 38: consequential amendments

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

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a great pleasure to see you, the fourth Chair of our Committee, Dame Siobhain. I welcome you to the Chair. It is a pleasure to serve with you directing us.

The clause is a simple consequential one: it removes references to and amendments made by the Illegal Migration Act 2023 and the Safety of Rwanda (Asylum and Immigration) Act 2024 when they no longer serve a purpose. During the passage of those two pieces of legislation it was necessary to amend existing Acts of Parliament, to cross-reference them and to enable enactment of the provisions within them. Few, if any, of those provisions were ever properly commenced or enacted but, since this Government intend to repeal the Safety of Rwanda Act and large parts of the Illegal Migration Act, which we spent most of this morning discussing, those references no longer serve any practical purpose. They should therefore be removed from the four existing Acts of Parliament.

Katie Lam (Weald of Kent) (Con): It is a pleasure to serve with you in the Chair this afternoon, Dame Siobhain, as it was yesterday afternoon. It is good to see you two days in a row.

The clause, as the Minister said, makes consequential amendments necessary as a result of the two clauses that we discussed this morning: clause 37, which repeals the Safety of Rwanda Act 2024, and clause 38, which repeals provisions of the Illegal Migration Act 2023. As we do not support either of those repeals, we do not support these revisions or agree that the clause should stand part of the Bill.

Dame Angela Eagle: We have had our debates about the contents of those Acts. The clause concerns truly miscellaneous aspects, although I understand the logic of the hon. Lady's argument. I certainly hope that we will press on and agree clause 39.

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

The Committee divided: Ayes 9, Noes 3.

Division No. 10]

AYES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Stevenson, Kenneth
Forster, Mr Will	Tapp, Mike
Hayes, Tom	White, Jo
McCluskey, Martin	

NOES

Bool, Sarah	Vickers, Matt
Lam, Katie	

Question accordingly agreed to.

Clause 39 ordered to stand part of the Bill.

Clause 40

Immigration advisers and immigration service providers

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

The Chair: With this it will be convenient to consider schedule 1.

Dame Angela Eagle: The clause introduces schedule 1, which will allow the governance arrangements for the Immigration Services Commissioner and deputy commissioner to be made more flexible. That will bring them in line with other public appointments by allowing for interim or shorter appointment lengths.

Schedule 1 sets out that the commissioner and deputy commissioner are to hold office for a term not exceeding five years. That allows the appointments to be for less than five years; currently, there is a fixed five-year term. Schedule 1 will make it discretionary to appoint a deputy commissioner, allowing for the governance arrangements to remain flexible to meet the demands of the organisation. It will enable the Home Secretary to appoint a senior, experienced member of staff to act in the commissioner's place in certain circumstances. It is to be used, for example, to ensure that cover is in place during a public appointment process where there is a vacancy in the commissioner and deputy commissioner posts. It does not replace the provision to appoint a deputy commissioner and will ensure continued regulatory oversight of immigration advisers, which is the point of this organisation.

The schedule will mean that the work of the Immigration Services Commissioner will continue and will operate more flexibly to ensure that good immigration advice is readily available. That is critical to the effective running of a coherent, efficient and fair immigration system.

Katie Lam: As the Minister has outlined, clause 40 inserts schedule 1 into the Bill. That provides that the Immigration Services Commissioner is not to hold office for a term exceeding five years. The current regime is based on there being a commissioner and deputy, so schedule 1 sets out that the commissioner may appoint a deputy. There is also a provision to enable a member of the commissioner's staff to act in the commissioner's place in certain circumstances, such as the roles of

commissioner and deputy both being vacant. That effectively allows for the appointment of an interim commissioner.

As was said in evidence to the Committee, these amendments do not seem to us to have operational consequence. We will not oppose them.

Question put and agreed to.

Clause 40 accordingly ordered to stand part of the Bill.

Schedule 1 agreed to.

Clause 41

Detention and exercise of functions pending deportation

Pete Wishart (Perth and Kinross-shire) (SNP): I beg to move amendment 7, clause 41, page 35, line 32, leave out subsection (17).

This amendment would leave out the subsection of this clause that applies subsections (1) to (13) (relating to detention and exercise of functions pending deportation) retrospectively, i.e. as if they have always had effect.

The Chair: With this it will be convenient to discuss clause stand part.

Pete Wishart: It is great to see you in the Chair, Dame Siobhain; it makes a pleasant change from what we have had in the past couple of weeks. I say that in the nicest way to Mr Stuart.

The Chair: I will have to find out more!

Pete Wishart: Clause 41 introduces a significant expansion of detention powers, allowing individuals to be detained from the moment a deportation is considered rather than waiting for a formal order. However, my main concern with the clause is that it is to apply retrospectively, meaning it would legally validate past detentions that were previously unlawful. As would be expected, the provision has sparked serious concerns among legal experts, human rights organisations and advocacy groups, raising critical questions about the rule of law, human rights and judicial oversight.

We had the Immigration Law Practitioners' Association with us as part of an evidence session. They have expressed great concern with this provision, saying:

> "We are concerned with the dangerous precedent which would be set if unlawful deprivation of liberty were to be treated as lawful—such retrospectivity undermines the rule of law and remains wholly unjustified in the materials accompanying the Bill."

I have looked at this issue and there does not seem to be any sufficient justification for this exceptional measure. The ILPA warns us that it could rewrite history, denying justice to individuals who could have sought remedies for unlawful detention.

Amnesty International, which again gave very good evidence to the Committee, has also voiced strong objections. It has highlighted how detention powers have expanded significantly while judicial oversight has weakened, leading to risks of serious injustice.

Bail for Immigration Detainees has stressed that clause 41 risks

> "further criminalising migrants and refugees".

It urges instead for a system that upholds human rights and dignity.

Combined with the Illegal Migration Act, the clause could lead to longer, more expensive and potentially unlawful detentions in breach of article 5 of the European convention on human rights. The Government's own impact assessment acknowledges that clause 41 effectively makes lawful past detentions that were not compliant with due process at the time, yet the European convention on human rights memorandum does not properly address whether that retrospective validation aligns with the fundamental legal safeguards of article 5. I would particularly like the Minister to address those concerns.

Clause 41 therefore undermines accountability, weakens judicial scrutiny and risks setting a dangerous precedent through which the Government can retroactively legitimise actions that would otherwise have been unlawful. Given the weight of these concerns, there is a strong case for leaving out the retrospective provisions from clause 41, and that is what my amendment 7 seeks to do. Upholding the rule of law means ensuring that detention powers are subject to proper legal safeguards and that individuals are not denied their fundamental rights through legislative backtracking.

Dame Angela Eagle: The purpose of clause 41 is to clarify the existing powers of detention pending deportation set out in schedule 3(2) of the Immigration Act 1971. The clause ensures that the Secretary of State can detain individuals once they have been notified that deportation is being considered. It also aligns the power to detain with the power to take biometrics and to search for nationality documents. That is because the taking of biometric information and any other searches will ordinarily take place at the point that somebody is detained. The effect of clause 41 is to make clear that a person subject to deportation may be detained at any stage of the deportation process. It strengthens an existing power; it does not create a new power. It clarifies a power that has always existed and been used for this purpose.

Another effect of the clause is to confirm that the Secretary of State may take biometrics and search for those documents. Since clause 41 clarifies existing powers, the detention provisions it contains are regarded as always having had effect. It is extremely important for Members to understand what the clarification of the powers of detention means. If a person is subject to deportation on the basis that the deportation is conducive to the public good, they may be detained at any stage of the deportation process. It is extremely important that the Home Office should be able to detain those it is seeking to deport on that basis. Some of these foreign national offenders pose a high risk of harm to the public. Therefore, inability to detain them could have a direct impact on public safety.

The clause makes it clear that it is lawful to detain a person once they are notified that the Home Office is considering whether to make a deportation order against them, but that is not a new detention power; it has been misunderstood in some of the commentary from outside of this place. The clause clarifies an existing power to ensure there is no ambiguity about when someone subject to a conducive deportation can be detained. The accurate identification of such people is very important.

[Dame Angela Eagle]

The clause also makes consequential amendments to existing powers to search detained persons—potential deportees—for documents that prove their identity or nationality, and to take their biometrics upon their being detained. Clause 41 sets out the power to detain pending deportation, as the Home Office has always understood it to operate. It is therefore right that the provision applies retrospectively. That deals with amendment 7, which is in the name of the hon. Member for Perth and Kinross-shire and seeks to remove the retrospective element of the clause.

Clause 41 clarifies the existing statutory powers of detention. There are important public safety reasons why these powers need to be put beyond doubt. Clause 41 clarifies the powers as the Home Office has always understood them to operate. There will be no operational impact that we can assess, or increased use of the power, and no effect on people in relation to whom this power has been exercised. It is entirely right that these provisions should apply retrospectively in these circumstances.

2.15 pm

Pete Wishart: I hear the Minister's justification for the powers and why she feels they are necessary, but I do not hear any compelling reason for why they have to be introduced retrospectively. What on earth is that supposed to help with? She knows the range of concerns raised by a number of legal organisations. I wish she would address their concerns about the consequences of the clause.

Dame Angela Eagle: The clause seeks to put beyond any doubt that the Home Office has the power to detain, in conducive deportation cases, at the earliest point. It has been doing that for many years. The clarification in the clause applies retrospectively to ensure that those who have been detained in the past have not been detained unlawfully. We do not believe they have, but this puts it beyond doubt. To clarify, this is not an extension of deportation powers; it is putting beyond doubt in the Bill the understanding of how and when these powers can be used—at the earliest opportunity, if it is a conducive deportation. The powers, including to detain at the earliest opportunity, have always existed.

If the amendment moved by the hon. Member for Perth and Kinross-shire were agreed to, it would cast doubt on many of the arrests and detentions ahead of deportations that have happened in the past, which I do not think the hon. Gentleman would want to do. To reassure the hon. Gentleman one final time, this is not an extension of deportation powers; it is a clarification of the way that they have always been understood to work. The clause puts beyond legal doubt that if somebody is being detained pending deportation, they can be detained lawfully at the earliest opportunity. That understanding has always been the case, but the clause puts it beyond any legal doubt.

Katie Lam: Clause 41 confirms that the Home Office may detain someone subject to deportation from the point at which the Home Office serves the notification that deportation is being considered, when that deportation is conducive to the public good. We support this provision to allow for detention before a deportation order is signed, but that only applies if the Secretary of State has notified the person in writing. Can I seek reassurance from the Minister that the requirement for a written notice will not build any delay into the process? We also support the provision in clause 42 to allow the Home Office to capture biometrics at the new, earlier point of detention.

Pete Wishart: I will not detain the Committee for long. I do not like clause 41 anyway—I think the extension of deportation powers is overwhelming and I do not believe they are required—but I do not like this retrospection one bit. I have not secured an adequate explanation from the Minister about why that is necessary. I would therefore like to put my amendment to a vote, Dame Siobhain.

The Chair: Thank you for clarifying, as that was going to be my next question. Does anybody else wish to contribute?

Katie Lam: May I ask for a response from the Minister to my question?

Dame Angela Eagle: I am happy to give the hon. Lady the assurance that she sought. If somebody is going to be detained, it will always be done with written notice, and that should not delay anything—it has not in the past.

Question put, That the amendment be made.

The Committee divided: Ayes 2, Noes 11.

Division No. 11]

AYES

Forster, Mr Will	Wishart, Pete

NOES

Bool, Sarah	Mullane, Margaret
Botterill, Jade	Stevenson, Kenneth
Eagle, Dame Angela	Tapp, Mike
Hayes, Tom	Vickers, Matt
Lam, Katie	White, Jo
McCluskey, Martin	

Question accordingly negatived.

Clause 41 ordered to stand part of the Bill.

Clause 42

POWERS TO TAKE BIOMETRIC INFORMATION

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

Dame Angela Eagle: You are getting a lot of practice with locking and unlocking the doors and having Divisions, Dame Siobhain—it is quite exciting this afternoon.

Clause 42 modernises our powers to capture biometric information, so that we have greater flexibility over who can take that information. It will enable a wider range of appropriately trained people to take biometric information, strengthening processing resilience following instances of small boat crossings or unexpected arrivals. In a situation where it is essential to capture biometrics

at the earliest opportunity and through streamlined processes, we will be able to utilise our resources more effectively. For example, the measure will enable contractors working at a short-term holding facility to capture biometrics in the same way as other contractors based in detention centres currently do. The clause also includes a power to make secondary legislation where there is a need for others to be able to capture biometric information. That is a future proofing of the legislation.

These are sensible and necessary measures to ensure that we can identify people quickly and establish whether they pose a threat to public safety if they have arrived in an irregular or illegal way.

Katie Lam: We are essentially supportive of clause 42, which among other things allows a person employed by a contractor in a short-term holding facility to be an authorised person to take fingerprints. The clause also includes a regulation-making power to allow other types of people to be authorised for this purpose.

May I ask the Minister how the regulation-making power is intended to be used? Are there currently other categories of people whom the Secretary of State or others in the Department would like to authorise to take fingerprints, or is this essentially a future-proofing measure, as the Minister mentioned?

Dame Angela Eagle: This is essentially future proofing. If another category or range of people became available, we may future proof this power and use the regulation-making power to ensure that they are taking biometrics lawfully.

Question put and agreed to.

Clause 42 accordingly ordered to stand part of the Bill.

Clause 43

ARTICLES FOR USE IN SERIOUS CRIME

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

The Chair: With this it will be convenient to consider clause 44 stand part.

Dame Angela Eagle: Clauses 43 and 44 cover the creation of two new offences concerning articles for use in serious crime. Law enforcement agencies are increasingly encountering individuals in possession of, or supplying, articles suspected to be intended for serious crime. However, proving intent or knowledge for a prosecution is often difficult, as the connection to a specific crime may not be immediately clear and facilitators frequently go undetected.

To address that challenge, clause 43 introduces two new criminal offences. The first criminalises the possession of specified articles; the second targets the importation, manufacture, adaptation, supply or offer to supply of those articles where there is a reasonable suspicion that they will be used in a serious offence. The specified articles include templates for 3D-printed firearms components, pill presses and vehicle concealments. Those concealments are particularly concerning in relation to smuggling operations, as they are often used to hide individuals for irregular immigration purposes.

The accused will need to prove that they did not intend for the article to be used in a serious offence, or that they could not have reasonably suspected it—given the few, if any, legitimate uses for the articles I have just mentioned. Those offences will be triable either way, with a maximum penalty of five years' imprisonment, a fine or both.

Clause 43 defines "serious offences" broadly, to include drug trafficking, firearms offences and assisting unlawful migration, as outlined in schedule 1 to the Serious Crime Act 2007. The clause strengthens the ability of law enforcement agencies to target those facilitating serious crime. It does that by closing legal gaps and addressing emerging criminal tools.

Clause 44 defines the specific articles to be included in the new criminal offences in clause 43. As I said, the articles are templates of 3D-printed firearms or their components, pill presses and encapsulators, and vehicle concealments. Law enforcement agencies have been clear that those articles are being increasingly used by organised crime gangs, and they will continue to be used unless we take action now. 3D-printed firearms templates are increasingly being used by organised criminals, and they are at present not illegal to possess. Pill presses are being used to manufacture illicit drugs, particularly benzodiazepines. Similarly, vehicle concealments have become a significant concern for law enforcement agencies, and they are used as aids in people smuggling and irregular migration.

Clause 44 also provides the Secretary of State with the power to amend the list of specified articles, allowing the law to adapt to emerging threats. Any changes will be subject to the affirmative procedure. The Home Office will continue to work closely with law enforcement agencies and other partners to monitor and update that list, ensuring that it remains relevant as criminal tactics evolve. By capturing those articles, the aim is to disrupt the enablers and facilitators who profit from supplying tools for organised crime.

Katie Lam: The clauses seem broadly reasonable, but we have a few questions on which I would appreciate some clarification from the Minister. Clause 43 creates two new offences: the possession of articles for use in serious immigration crime, and the importation, manufacture, and supply or offer to supply of articles for use in serious immigration crime. Could the Minister explain whether she feels that UK Border Force currently has the right capabilities to identify and intercept the harmful materials captured by the clause?

Clause 43 reverses the evidential burden of proof, in that a person charged with offences under it can successfully prove their defence if they provide enough evidence in court to raise a question about the issue, and the prosecution cannot prove the opposite beyond reasonable doubt. Could the Minister please explain why the decision has been taken to do that? The maximum penalty for the offences created under the clause is imprisonment for five years, a fine or both. Could the Minister please explain how and why those penalties were decided on?

Clause 44 defines "relevant article" for the purposes of the offences created in clause 43. Could the Minister please explain whether clauses 43 and 44 provide any operational benefit in terms of tackling smugglers operating abroad, and if so, how?

Tom Hayes (Bournemouth East) (Lab): It is a pleasure to serve under your chairpersonship, Dame Siobhain. I want to dwell briefly on clause 43 because it embodies a significant theme in the Bill: preparing our country for the challenges we face today and those we will face to a greater extent in the future. In that context, it is so important to talk about the risk posed to our country's security by 3D-printed firearms.

I commend the campaigning of my hon. Friend the Member for Birmingham Edgbaston (Preet Kaur Gill), who has done an enormous amount of work on this issue. 3D-printed firearms are a serious threat to our security, and present a new challenge to law enforcement because they can easily be made at home and are untraceable and undetectable. Indeed, files containing IKEA-like step-by-step guides to 3D print firearms at home can be downloaded from the web in as little as three clicks. That is terrifying. If we can tackle that through the Bill, that feels like a significant contribution.

2.30 pm

We know that law enforcement is calling out for these powers. In oral testimony, we heard comprehensively from operationally and frontline-focused senior leaders that they want to be able to do more to get ahead of these threats. One of the great things about the Bill is that it has been drafted by people who have listened to the experts, and it will give them the resources they need. As a consequence, we will be able to secure our border and make sure that people are safe on our streets.

Dame Angela Eagle: The hon. Member for Weald of Kent may be familiar with the provisions in clauses 43 and 44, because they were in a Bill introduced by her predecessor, the right hon. Member for Croydon South (Chris Philp), who is now the shadow Home Secretary. That Bill was interrupted by the general election. Oddly, I chaired that Bill Committee in the last Parliament and listened to him make a speech about this issue. I therefore hope that there will be no real objection to the powers we need to take in clauses 43 and 44 to make it easier to disrupt and prevent harm from serious organised crime, some of the tools used in it and the facilitators who enable it. Such people might not have been at the scene of the crime, but they have enabled a lot of harm by supplying or importing the goods that I mentioned.

There are two sets of offences, which are designed to target different types of activity. The hon. Member for Weald of Kent asked about the evidential burden. These articles do not have ordinary, normal uses that I would consider legitimate. Printing 3D guns, or having pill presses in order to produce drugs for street sale, does not seem to be as legitimate as, say, purchasing a boat engine or indeed a boat. Given that there are no real, legitimate uses for such items, we think that placing the evidential burden on the defence to explain why on earth the person charged with possessing them has them is wholly reasonable.

Clauses 43 and 44 are intended to disrupt serious organised crime efforts to penetrate our border with paraphernalia for producing drugs or guns, or any of the things that go along with serious organised crime activity in this country, and thereby to keep people safe. I hope that the Committee will support them.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44 ordered to stand part of the Bill.

Clause 45

Confiscation of assets

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

Dame Angela Eagle: Clause 45 amends the Proceeds of Crime Act 2002 to include offences related to the possession and supply of articles intended for serious crime, as outlined in clause 43. It will enable law enforcement agencies to seize the assets of individuals convicted under clause 43.

Specifically, the clause adds:

"Offences relating to things for use in serious crime"

to the criminal lifestyle schedules for England and Wales, Scotland and Northern Ireland. A defendant convicted of an offence listed in those schedules will automatically be deemed to have led a criminal lifestyle and to have benefited from criminal conduct over a period of time. That means that assets obtained or spent in the six years prior to conviction are presumed to be derived from criminal conduct and are subject to confiscation unless the defendant can prove otherwise. However, the court is not required to make that assumption if it would result in injustice or is shown to be incorrect.

Confiscation orders are calculated based on the defendant's monetary gains from crime—known as the benefit—and the assets they have available to them when the order is made. Orders are made to reflect the amount gained from crime and can be increased if the defendant's finances improve. Non-payment of orders can lead to the defendant returning to prison.

By including these offences in the Proceeds of Crime Act, we can target financially criminals who profit from facilitating crime, disrupting both the crime and the financial gains that support it.

Katie Lam: Clause 45 allows the relevant articles listed under clause 44 to be confiscated under the Proceeds of Crime Act. We support this measure.

Question put and agreed to.

Clause 45 accordingly ordered to stand part of the Bill.

Clause 46

Electronic monitoring requirements

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

Dame Angela Eagle: The purpose of clause 46 is to remove any ambiguity about the court's power to impose electronic monitoring as a condition of a serious crime prevention order or interim serious crime prevention order.

As currently drafted, the clause applies in England and Wales for any serious crime prevention order or interim serious crime prevention order, and in Scotland and Northern Ireland in terrorism-related cases only. However, since the Bill's introduction, further legal

complexities have come to light regarding the devolved Governments' powers to impose an electronic monitoring condition. Pending agreement from the Scottish Cabinet Secretary, an amendment will be tabled to remove that express provision for Scotland. Northern Ireland's position is still to be determined. I point that devolution complication out to Committee members and will keep them informed as those discussions develop.

Electronic monitoring serves as a deterrent, but it also improves the detection of any breaches. If the subject violates the conditions, it enables quicker intervention by law enforcement agencies. The clause outlines specific requirements for both the courts and the individual, including the obligation for the subject to consent to the installation and maintenance of monitoring equipment and to avoid tampering with it.

Additional safeguards are included. For instance, electronic monitoring can be imposed only for up to 12 months at a time, with the possibility of extension. A further safeguard requires the Secretary of State to issue a code of practice on handling monitoring data, ensuring consistency and clarity for law enforcement.

This clause on electronic monitoring for those subject to serious crime prevention orders will enhance the effectiveness of such orders and interim SCPOs, supporting efforts to disrupt serious and organised crime, reduce harm and protect the public. I commend the clause to the Committee.

Katie Lam: Clause 46 allows the courts to impose an electronic monitoring requirement as part of a serious crime prevention order. The clause is helpful for investigating suspects who are already in the UK, and we broadly support it. Will the Minister confirm that the requirement for electronic monitoring will apply to those who are on immigration bail? What value does the Minister feel serious crime prevention orders might have as a deterrent for those operating abroad?

Clause 46 specifies that there will be a code of practice to outline the expectations, safeguards and broad responsibilities for the data gathered, retention and sharing of information on these orders. When will that code of practice be issued, and can the Minister please outline what the Government expect to be included?

Mr Will Forster (Woking) (LD): It is a pleasure to serve under your chairmanship, Dame Siobhain. I would like the Minister to define electronic monitoring for us, if she can. I do not believe that there is such a definition in the Bill or in other Acts of Parliament. As a result, I worry that there is confusion, so I would welcome her thoughts.

Dame Angela Eagle: We are talking about electronic monitoring in the context of serious crime prevention orders; we are not talking about monitoring simply in connection to being an asylum seeker or migrant. I would not want Opposition Members to worry or mix up those two things.

This part of the Bill is about dealing with serious and organised criminality, some of which will involve people smuggling, and some of which will involve drugs, firearms or other serious organised crime. This is electronic tagging in the context of the granting of serious and organised crime orders, or interim serious and organised crime orders, which are designed to disrupt and prevent the activities of serious organised crime groups, not just general asylum seekers or migrants. Obviously, there may be some connection between the two, but it is not direct in this area.

Those orders and their conditions, such as electronic monitoring, therefore will not apply to migrants generally. Law enforcement agencies use serious crime prevention orders to manage individuals who have been convicted of, or are suspected of, serious criminality, where the order will protect the public by preventing, restricting or disrupting the person's involvement in serious crime.

Serious crime prevention orders can be imposed on offenders for a range of offences relating to people smuggling. The specific conditions of the order will be a matter for the judge in the High Court who makes it, and for the law enforcement body that makes the application. This is very focused, and it is all about the context of the individual who has been served with such an order. For that to happen, there has to be evidence of their involvement in serious and organised crime.

Clearly, tagging is about being able to check where people are, while electronic monitoring can also apply to other activity. It will apply in a particular context to a particular person for disruption reasons, so there is not one definition of electronic tagging. I hope that helps the hon. Member for Woking to understand the monitoring that we are talking about. On that basis, I hope members of the Committee will agree to clause 46.

Question put and agreed to.

Clause 46 accordingly ordered to stand part of the Bill.

Clause 47

INTERIM SERIOUS CRIME PREVENTION ORDERS

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

The Chair: With this it will be convenient to discuss schedule 2.

Dame Angela Eagle: Clause 47 introduces interim serious crime prevention orders as part of the wider regime of serious crime prevention orders established under the Serious Crime Act 2007. Interim serious crime prevention orders are designed to protect the public while a full serious crime prevention order application is considered. The Court can impose an interim serious crime prevention order within hours, imposing a range of conditions and restrictions to disrupt further criminal behaviour. For example, anyone suspected of being involved in people trafficking or other serious crime could face bans on travel, using the internet and mobile phone use.

2.45 pm

Interim serious crime prevention orders will allow enforcement agencies to act swiftly to prevent, disrupt or restrict serious offences before they occur. These are the counter terrorism-style powers that attach to the Bill, and they are about disruption and prevention. It is not about waiting until the harm has happened and then arresting people for causing it; it is about trying to prevent the harm from happening in the first place.

Interim crime prevention orders will allow enforcement agencies to act swiftly to prevent, disrupt or restrict serious offences before they occur, stopping offenders from reorganising or destroying evidence. This clause allows without notice applications, enabling interim orders to be made without the individual present, if notice could undermine the order's effectiveness.

Additionally, given that this is a powerful tool, clause 47 provides key safeguards, including the requirement to serve notice of an interim serious crime prevention order within seven days, and to allow individuals to challenge the order in court via the appeal process, or on application to vary its terms or discharge. This is not without precedent; interim orders are successfully used in areas such as sexual risk and modern slavery, where the urgency to protect the public justifies temporary restrictions or requirements on individuals. Clause 47 will enable the National Crime Agency, the police and other law enforcement agencies to act more quickly than current powers allow to protect the public from serious criminals, including those who are engaged in organised immigration crime.

Schedule 2 introduces a series of consequential amendments to the Serious Crime Act 2007 to extend existing provisions to interim serious crime prevention orders. These amendments ensure that interim serious crime prevention orders are governed by the same legal safeguards and processes as full orders. Key provisions include extending protection for individuals under the age of 18, granting the right to make representations in court, and aligning rules for the duration, variation and discharge of orders. The amendments also apply to bodies corporate, partnerships and unincorporated associations, ensuring accountability if they breach an interim serious crime prevention order. Schedule 2 ensures that interim serious crime prevention orders have the same effective safeguards as serious crime prevention orders, while strengthening the legal framework for preventing serious crime.

Katie Lam: Clause 47 introduces a new provision for interim serious crime prevention orders. These allow the High Court to impose immediate restrictions, pending the determination of a full serious crime prevention order application. The Court can do that if it considers that it is just to do so. Can the Minister explain a little more by what process the Court will decide whether it is just? Is the criterion that it is necessary for public protection?

Proposed new section 5F of the Serious Crime Act makes provision for without notice applications. That is where the application for an interim serious crime prevention order, or the variation of an interim serious crime prevention order, is made without notice being given to the person against whom the order is made, in circumstances where notice of that application is likely to prejudice the outcome. Subsection (2) of proposed new section 5F makes provision for the Court to allow the relevant person to make representations about the order as soon as is reasonably practicable. Can the Minister explain whether that will always happen after the order is granted?

Dame Angela Eagle: The High Court will be empowered to impose an interim serious crime prevention order if it considers it just to do so. In other words, it is not an evidential test, because the Court does not apply a standard of proof. Rather, it invites the Court to impose an order before it has heard and tested all the evidence in instances that require fast-paced action to prevent and disrupt serious and organised crime. It is therefore an exercise of judgment or evaluation. There is a precedent for this approach in interim sexual risk orders and interim slavery and trafficking risk orders, which are currently a feature of the system and work reasonably well.

Question put and agreed to.

Clause 47 accordingly ordered to stand part of the Bill.

Schedule 2 agreed to.

Clause 48

Applicants for making of orders and interim orders

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

Dame Angela Eagle: Currently, the High Court can make a serious crime prevention order only upon application from the Crown Prosecution Service, the Serious Fraud Office and the police in terrorism-related cases. However, High Court serious crime prevention orders have not been fully utilised; between 2011 and 2021, only two applications were made, and only one resulted in a successful order. Clause 48 extends the list of agencies that can apply directly to the High Court for a serious crime prevention order, or an interim serious crime order, to the National Crime Agency, His Majesty's Revenue and Customs and the police in all cases, including the British Transport Police and the Ministry of Defence Police. The clause also specifies who within each agency is authorised to apply for these orders.

This extension will simplify and expedite the application processes for serious crime prevention orders, making it easier for agencies that are directly involved in tackling serious crime to make an application where appropriate. It gets rid of a gateway process that has proven to be so tight that it has not allowed very many of these orders to go forward at all. Those agencies are often best placed to apply for a serious crime prevention order as they already have an in-depth knowledge of the case.

The clause also requires the CPS to be consulted by the applicant authority, as it will continue to have responsibility for ensuring that the order is not used as a substitute for prosecution. That is a very important part of ensuring that these orders work appropriately. In practice, this clause will make serious crime prevention orders more readily available to the agencies that are most likely to use them, to ensure that this powerful tool is used to best effect to protect the public by preventing and disrupting serious and organised crime.

Katie Lam: Clause 48 details who can apply to make orders and interim orders, and it replaces and extends the previous list in section 8 of the Serious Crime Act 2007. Can the Minister please explain how long an application for an interim serious crime prevention order might take when made to either the High Court or the Crown court?

Tom Hayes: I want to reflect on where we have got up to. We have moved through the clauses at quite a pace, and that is very pleasing to see. The Bill responds to the requests of operationally and frontline-focused people in law enforcement and border security, and it is an

attempt to give them the tools and powers that they need. I particularly wanted to mention that in the context of interim serious crime prevention orders, which we have spoken about in clauses 47 and 48.

That cuts such a sharp contrast with what has happened over recent years. In 2022, one Home Secretary introduced the Nationality and Borders Act 2022. At the time, the Government said that that would deter people from crossing in small boats, but it did not. In 2023, another Home Secretary brought in the Illegal Migration Act 2023. At the time, the Government said that that would turn people away from crossing the channel in small boats, but it did not. In 2024, another Home Secretary brought in the Safety of Rwanda Act, which happily we have just repealed today. At the time, the Government talked about the prospect of sending people to Rwanda, and they said that alone would be sufficient to deter people from crossing the channel in small boats. It is no wonder that that failed, too.

I wanted to set out how in 2022, 2023 and 2024 we had three separate Acts, which all aimed to do something and failed to do so. They have not delivered what operationally focused people have requested. We really need to look at how, just eight months into this new Government, we are turning the page on our asylum system and giving enforcement powers to the people who need them. We are also tidying up the statute book and ensuring greater co-ordination across the key agencies that can secure our border. I commend clause 48 to the Committee, as I do the series of clauses before it and the Bill overall.

Dame Angela Eagle: The idea behind the creation of interim serious crime prevention orders is to ensure that they can be brought into use ahead of a longer lasting serious crime prevention order. The widening of the range of organisations that can apply for them is designed to empower organisations such as the National Crime Agency, HMRC and the MOD police to apply, because they are much closer to the evidence that could enable the disruption of a particular serious organised crime group.

The hon. Member for Weald of Kent asked how long it would take to get such an order, and that would vary from case to case. It depends on the evidence. As I pointed out in relation to the previous clause, this is about the High Court reviewing the papers. It is not about a trial or a pre-trial; it is just about issuing an order that will prevent something that might cause damage from happening. We think that the changes made by the clauses that we have just debated, up to and including clause 48, make it more likely that serious and organised crime orders will be used and will be effective.

Question put and agreed to.

Clause 48 accordingly ordered to stand part of the Bill.

Clause 49

Notification requirements

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

Dame Angela Eagle: Clause 49 amends the Serious Crime Act 2007 to introduce a standardised list of notification requirements for individuals and bodies corporate that are subject to serious crime prevention orders. This is a process of standardisation. Currently, notification requirements are added at the court's discretion on a case-by-case basis. The clause will standardise those requirements for all serious crime prevention orders, improving the consistency and monitoring of the orders across police forces.

We have worked closely with law enforcement partners to identify appropriate requirements. The standard list will include monitoring legitimate income, checking addresses or communication methods for signs that criminal activities are being re-established, and monitoring foreign travel to assess potential indications of a return to crime. The courts can then impose additional requirements and conditions as part of the serious crime prevention order.

For bodies corporate, a designated individual must be named to liaise with the police and provide the notifiable information—including personal details, employment, financial data and contact information—which is essential for law enforcement to ensure compliance and assess risk to public safety.

The clause includes a delegated power to add to the list of notification requirements, ensuring flexibility to meet operational needs as technology evolves. The statutory instrument will be subject to the draft affirmative procedure. Individuals who are subject to a serious crime prevention order must provide the notifiable information within three days of the order coming into force. Failure to provide information, or providing false information, will be a criminal offence punishable by a fine or up to five years' imprisonment. The standardisation of notifications will improve consistency in managing serious criminals and improve law enforcement agencies' ability to assess risk and therefore more effectively protect the public.

Katie Lam: Clause 49 sets out a prescribed set of notification requirements, so that a person who is subject to a serious crime prevention order is required to provide the police or the applicant authorities with certain information. We support the clause, although can the Minister explain why three days has been given as the deadline to respond with the notifiable information requested?

Dame Angela Eagle: Three days seems a reasonable amount of time to allow the individual or body corporate concerned to gather the information, but also to ensure that the authorities get it in a timely way, so as to prevent any potential harm that might come from delay.

Question put and agreed to.

Clause 49 accordingly ordered to stand part of the Bill.

Clause 50

Orders by Crown Court on acquittal or when allowing an appeal

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

Dame Angela Eagle: Currently, the High Court has the authority to impose a serious crime prevention order without a conviction, provided that the Court is satisfied that the person has been involved in serious

[Dame Angela Eagle]

crime and that there are reasonable grounds to believe that the order will protect the public by preventing, restricting or disrupting their involvement in serious crime.

Clause 50 amends the Serious Crime Act 2007 to grant the Crown court the power to impose a serious crime prevention order on individuals who have been acquitted of an offence, or in circumstances where the appeal has been allowed, if the same two-limb test is met. There may be cases where a person is acquitted but a serious crime prevention order is still needed. This can happen if the threshold for a criminal conviction is not met but there is still enough evidence to show that the person is involved in serious crime, and that the order would protect the public.

The Crown court would have just heard the evidence of the case and would be in the best position to assess whether an order is necessary to protect the public. Again, this approach is not new; similar provisions are found in other laws, such as domestic abuse protection orders under the Domestic Abuse Act 2021, and restraining orders under the Protection from Harassment Act 1997, where orders can still be issued even after an individual has been acquitted. The effect of this clause is to streamline the process, enabling serious crime prevention orders to be applied more regularly and effectively in appropriate cases.

Katie Lam: Clause 50 allows the Crown court the power to impose a serious crime prevention order on acquittal or when allowing an appeal. Subsection (2) provides that in order to impose a serious crime prevention order in these circumstances, the court has to be satisfied both that the person has been involved in serious crime and that the court has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by that person in serious crime in England or Wales. Why do both tests need to be satisfied for a serious crime prevention order to be imposed? Where these cases involve acquittal, as the Minister outlined, it might be hard to satisfy the first test. It seems to us that the second test of protecting the public is sufficient grounds to impose a serious crime prevention order.

Dame Angela Eagle: It is a two-limb test. Obviously, the evidential test for criminal proceedings is beyond reasonable doubt. There is a lower evidential test in other court instances, and it may very well be that someone who did not pass the "beyond reasonable doubt" test in a criminal trial would still be considered by the court to be involved in criminal activity, and therefore they would pass the first limb of the test. They would pass the second limb as they would still be likely to be involved in criminal activity in the future. We think that the two-limb test is an appropriate response to protect civil liberties, while protecting the public from the behaviour of those who are involved in serious and organised crime. We think that that balance is about right.

Question put and agreed to.

Clause 50 accordingly ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. *—(Martin McCluskey.)*

3.4 pm

Adjourned till Thursday 13 March at half-past Eleven o'clock.

Written evidence reported to the House

BSAIB27 The Bar Council

BSAIB28 Detention Action, Medical Justice and Bail for Immigration Detainees

BSAIB29 Liberty

BSAIB30 Safe Passage International

BSAIB31 Scottish Refugee Council (supplementary submission)

BSAIB32 Young Roots

BSAIB33 Public Law Project and Freedom from Torture (joint submission)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Ninth Sitting

Thursday 13 March 2025

(Morning)

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

not later than

Monday 17 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, † Dame Siobhain McDonagh, Dr Andrew Murrison, Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 13 March 2025

(Morning)

[Dame Siobhain McDonagh *in the Chair*]

Border Security, Asylum and Immigration Bill

11.30 am

The Chair: Would everyone please ensure that all electronic devices are turned off, or switched to silent mode? We now continue line-by-line consideration of the Bill. The grouping and selection list for today's sitting is available in the Committee Room and on the parliamentary website. I remind Members about the rules on the declaration of interests, as set out in the code of conduct. I also remind Opposition Members that, if one of your new clauses has already been debated and you wish to press it to a Division when it is reached on the amendment paper, you should please let me know in advance.

Clause 51

Validation of fees charged in relation to qualifications

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

The Parliamentary Under-Secretary of State for the Home Department (Seema Malhotra): It is a pleasure to serve under your chairship today, Dame Siobhain, and to contribute to Bill Committee proceedings on this important piece of legislation.

I will briefly state the purpose and effect of the clause before I make some more detailed remarks. The purpose of the clause is to ensure retrospective power for the charging of fees currently provided on behalf of the Home Office and the Department for Education in relation to the comparability, recognition or assessment of qualifications obtained in and outside of the UK from any time to the point at which the Bill comes into force. The effect of the clause is that fees charged by, or under, arrangements with the Secretary of State in relation to the comparability, recognition or assessment of qualifications obtained in and outside of the UK will have been charged lawfully.

I will now lay out how this situation came about. In spring 2024, under the previous Administration, an issue was identified with the legal arrangements to charge fees for three services provided by a third-party supplier on behalf of the Home Office and the DFE. Those are the Home Office's visas and nationality service, the Department for Education's UK European network of information centres services, and the Department for Education's non-UK early years qualifications recognition service. A statutory basis for those fees has not been in place for a part, or the whole, of the period of their being charged. Although we do not have an exact date from which that may have run, the estimate is from around 2008 to the present day.

Regulations have been made for the charging of services recently for the Home Office's visas and nationality service, and are being made for the Department for Education's UK ENIC services. The fee for the non-UK early years qualifications recognition service was removed. We are bringing forward the clause to ensure that fees charged before the Bill comes into force are lawful.

We recognise that retrospective legislation should be used with caution, however, we consider that there are important reasons for it in this case, and indeed, that it was assumed that there was a legal basis for those fees in the past. In considering whether retrospective legislation is the right approach, it is important to be clear that customers who paid a fee received a service that they were able to use as part of, for example, a visa or nationality application, or to understand the comparability of qualifications to support access to education or work.

Other options, such as repaying fees, would require placing a considerable and unfair financial burden on UK taxpayers, who have not, on the whole, directly benefited financially from income generated by these services. That is why we believe that this measure is the right course of action to ensure that there is no doubt about the charges being lawful while protecting taxpayer money and Government resource. I repeat the fundamental point that a service was received for the fee that was paid.

It is important to make sure that we learn lessons and ensure that that situation does not happen again. Both Departments now have robust guidance and processes in place to support policy leads where legislative powers are needed to support the charging of fees in relation to the provision of public services.

Matt Vickers (Stockton West) (Con): Clause 51 details the validation of fees charged in relation to qualifications. We support this measure.

The Chair: Great—we are off to a flying start.

Question put and agreed to.

Clause 51 accordingly ordered to stand part of the Bill.

Clause 52

Financial provisions

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

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

Amendment 20, in clause 53, page 55, line 23, at end insert—

"(3) The Secretary of State may only make regulations under subsection (1) which amend, repeal or revoke an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament following consultation with Scottish Ministers.".

This amendment requires the Secretary of State to consult Scottish Ministers when making regulations under Clause 53 (1) which amend, repeal or revoke an enactment in or under an Act of the Scottish Parliament.

Clauses 53 and 54 stand part.

The Minister for Border Security and Asylum (Dame Angela Eagle): Clause 52 enables money to be provided by Parliament for expenditure incurred under or by virtue of the Bill and for any increase in expenditure attributable to the Bill. Clause 53 allows the Secretary

of State to make consequential or minor amendments to the Bill by regulation. Clause 54 confirms that regulations under the Bill must be made by statutory instrument.

Regulations under the provisions of the Bill listed in clause 54(3) will be subject to the affirmative process and will therefore require a draft statutory instrument to be laid and approved by a resolution of each House of Parliament before they can be made. I commend the clauses to the Committee, but I will answer any questions or queries the hon. Member for Perth and Kinross-shire has in his speech on amendment 20.

Pete Wishart (Perth and Kinross-shire) (SNP): Dame Siobhain, we have to stop meeting like this. Amendment 20 is a rather simple amendment, and one that I hope the Minister takes seriously. Clause 53 has a massive and dramatic impact on Scottish legislation that has been passed under devolved powers by the Scottish Parliament. It says that the Secretary of State has the power to make regulations that are consequential on the Bill. Those regulations could,

"in particular, amend, repeal or revoke any enactment passed or made before, or in the same Session as"

the Bill.

The power granted to the Secretary of State is overly broad, affecting all legislation passed by the Scottish Parliament and Scottish statutory instruments over the past 25 years. Importantly, that includes enactments in or made under an Act of the Scottish Parliament as well as similar legislation passed by the Senedd Cymru and the Northern Ireland Assembly. It is unreasonable that the Home Secretary could amend, repeal or revoke that body of law through regulations that bypass proper parliamentary scrutiny.

Requiring consultations with Scottish Ministers before making those regulations is the bare minimum and could help to identify potential issues and prevent unintended consequences. The use of Henry VIII powers —or James VI powers, as we would prefer to call them in Scotland—is unconstrained and could have significant implications for the law in Scotland. For that reason, it is crucial that the Secretary of State consults with Scottish Ministers and with other devolved Administrations before moving forward with those regulations.

Dame Angela Eagle: Amendment 20 seeks to add a requirement to the Bill that Scottish Ministers are consulted before any regulations are made under clause 53(1). I recognise the sentiment behind the amendment tabled by the hon. Member for Perth and Kinross-shire and fully expect it. I support his general point about the importance of collaboration between the UK Government and the devolved Governments. The Prime Minister was clear when this Government were elected that it is our intention to ensure close collaboration between the UK Government and the devolved Governments. I hope that my counterparts in those Governments have felt that that rings true in the case of this Bill; I was pleased to discuss it with them in February.

I can assure the hon. Member that—he will be surprised to hear—this amendment is unnecessary. The standard power in clause 53(1) simply enables regulations to make any further necessary consequential amendments. Where such regulations amend, repeal or revoke primary legislation, clause 54(3) provides that the regulations would follow the draft affirmative procedure, requiring the approval of each House.

In line with normal practice, the Home Office and other UK Government Departments work with officials in the devolved Governments when legislation is being developed that would have an impact on the devolved nations, including where there is an interaction with legislation passed by the Scottish Parliament, the Senedd or the Northern Ireland Assembly. For this Bill, I and officials in the Home Office have had regular engagement with the devolved Governments. I put on record my thanks to the officials and my ministerial counterparts in the devolved Governments their constructive engagement and contributions to the development of this legislation. They are considering the Bill, and I have asked them to seek legislative consent in their respective legislatures where appropriate for certain measures.

I also note that since the relevant regulations cover only those provisions consequential on the content of the Bill, and since that content has involved continued engagement with devolved Governments over many months, what the amendment seeks is already accounted for. That said, I reiterate that normal practice would be for the devolved Governments to be engaged where legislation, including secondary legislation, is expected to have an impact on their nation. This legislation largely concerns matters that are reserved to this Parliament. For the areas where it does not, legislative consent motions are in the process of being considered in the devolved Administrations.

Given those reassurances and the general good will that has come out of the meetings we have had with all the devolved Administrations, I hope that the hon. Member will consider his concerns to be unjustified in this instance and will not push the amendment to a vote.

Pete Wishart: I will not push the amendment to a vote.

Matt Vickers: Clause 52 details the financial provisions. Clauses 53 and 54 set out the regulations. Clause 55 extends the Act to England and Wales, Scotland and Northern Ireland. Clause 56 details when the sections of the Act come into force. We welcome the clarity provided by the Minister on collaboration. We will not oppose these measures.

Question put and agreed to.

Clause 52 accordingly ordered to stand part of the Bill.

Clauses 53 and 54 ordered to stand part of the Bill.

11.45 am

Clause 55

EXTENT

Dame Angela Eagle: I beg to move amendment 21, in clause 55, page 56, line 28, after "12," insert "24, ".

This amendment removes clause 24 (which amends the Criminal Justice and Police Act 2001) from the power to extend provisions of the Bill to the Isle of Man by Order in Council.

The Chair: With this it will be convenient to discuss Government amendments 23 and 24.

Dame Angela Eagle: Government amendments 23 and 24 add to the existing provision at clause 55(4):

"His Majesty may by Order in Council provide for any of the provisions…to extend…to the Isle of Man."

[Dame Angela Eagle]

Certain provisions are, as appropriate, excluded from extension. The amendments make the same provision to extend provisions by Order in Council to the Bailiwick of Guernsey and the Bailiwick of Jersey. That follows the Government receiving confirmation from the Bailiwick of Guernsey and the Bailiwick of Jersey that they wish for a permissive extent clause to be included in the Bill. I am grateful for the engagement of officials and the consideration by respective legislative assemblies on these matters. Confirmation from the Isle of Man has been received before the introduction of the Bill, hence provision already being made at introduction.

Government amendment 21 amends the list of provisions excluded from extension by Order in Council with the effect that clause 24, which amends the Criminal Justice and Police Act 2001, may not be extended. That is on the basis that that Act does not have an equivalent permissive extent clause, and any extension would therefore not be required or appropriate. That is a little tweak to the Bill.

Mr Will Forster (Woking) (LD): I am surprised to be raising this issue and that I do not immediately know the answer. The Minister has raised issues with Jersey, Guernsey and the Isle of Man, but that poses the question: what about our other overseas territories and areas such as the Falklands? The Government clearly considered the impact of our complicated relations with some places when drafting the Bill, but what about the others? Have the Government considered all those issues?

Dame Angela Eagle: I assure the hon. Gentleman that we certainly have considered those issues. The tweak with the Isle of Man relates to a technicality that was discovered after the Bill was drafted. The two other amendments, which extend certain provisions to the Bailiwicks of Guernsey and Jersey respectively, were added after work was done between our Parliament and those legislatures to ensure that they were happy for that extension and wanted a permissive extension clause to be added. That is what the amendments do.

Amendment 21 agreed to.

Seema Malhotra: I beg to move amendment 22, in clause 55, page 56, line 28, after "39" insert " and (*EU Settlement Scheme: rights of entry and residence etc*)".

This amendment to the extent clause is consequential on NC31.

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

Government amendment 25.

New clause 31—*EU Settlement Scheme: rights of entry and residence etc*—

"(1) For the purposes of this section 'relevant citizens' rights' means the rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

(a) are recognised and available in domestic law by virtue of section 7A or 7B of the European Union (Withdrawal) Act 2018, and

(b) are derived from—

(i) Title 2 of Part 2 of the withdrawal agreement or Title 1 or 4 of Part 2 of that agreement so far as relating to Title 2 of that Part,

(ii) Title 2 of Part 2 of the EEA EFTA separation agreement or Title 1 or 4 of Part 2 of that agreement so far as relating to Title 2 of that Part, or

(iii) Article 4(2), 7 or 8 or Chapter 1 of Title 2 of Part 2 of the Swiss citizens' rights agreement or Title 1 of Part 2 of that agreement so far as relating to Chapter 1 of Title 2 of that Part.

(2) Subsection (5) applies to a person ('P') where—

(a) P has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,

(b) the leave was granted to P on the basis of requirements which included that P is a relevant national or is (or was) a family member of a person who is (or was) a relevant national,

(c) each of the requirements on the basis of which P's leave was granted was in fact met,

(d) either—

(i) in a case where P's leave was not granted on the basis that P is (or was) a joining family member of a relevant sponsor, P was resident in the United Kingdom or the Islands immediately before the end of the implementation period, or

(ii) in a case where P's leave was granted on the basis that P is (or was) a joining family member of a relevant sponsor, the relevant sponsor was resident in the United Kingdom or the Islands immediately before the end of the implementation period, and

(e) the residency mentioned in paragraph (d) was not relevant residency.

(3) For the purposes of subsection (2)—

(a) a person is to be treated as a family member of another person if they are treated as the family member of that person by residence scheme immigration rules;

(b) 'joining family member' and 'relevant sponsor' have the same meaning as in residence scheme immigration rules;

(c) a person is to be treated as resident in the United Kingdom or the Islands immediately before the end of the implementation period even if they were temporarily absent from the United Kingdom or the Islands at that time if their absence was permitted for the purposes of establishing or maintaining eligibility for leave under residence scheme immigration rules;

(d) 'relevant national' means a national of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland.

(4) In this section 'relevant residency' means—

(a) residency in accordance with Union law (within the meaning of the withdrawal agreement),

(b) residency in accordance with the EEA Agreement (within the meaning of the EEA EFTA separation agreement), or

(c) residency in accordance with the FMOPA (within the meaning of the Swiss citizens' rights agreement).

(5) Relevant citizens' rights—

(a) are capable of accruing and applying to a person to whom this subsection applies notwithstanding that the residency mentioned in subsection (2)(d) was not relevant residency, and

(b) are to be enforced, allowed and followed accordingly.

(6) Every enactment (including an enactment contained in this Act) is to be read and has effect subject to subsection (5).

(7) In this section—

'EEA EFTA separation agreement' has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);

'enactment' has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act);

'the implementation period' has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 1A(6) of that Act);

'the Islands' means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;

'residence scheme immigration rules' has the same meaning as in Part 3 of the European Union (Withdrawal Agreement) Act 2020 (see section 17 of that Act);

'Swiss citizens' rights agreement' has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);

'withdrawal agreement' has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act)."

This new clause ensures that an EEA or Swiss national or their family member who has immigration leave granted under the EU Settlement Scheme can enforce residency and other rights directly under the withdrawal (or other separation) agreement even if the person, or their family member, was not resident in the UK or the Islands in accordance with Union (or other equivalent) law at the end of the implementation period.

Clause stand part.

Clauses 56 and 57 stand part.

Seema Malhotra: I turn first to new clause 31, which is on EU citizens' rights. It will confirm in law what the UK has in practice sought to do since the EU settlement scheme was established: to ensure that all EU citizens and their family members with status under the scheme have equal rights in the UK.

Part of this is quite complicated, so it may be useful to try to simplify it. In order to meet free movement rules, those who were here as residents from the European Union before the end of the transition period, which was the end of December 2020, needed to have been financially self-sufficient, studying or working for the previous five years. That meant that they had the rights of permanent residence in the UK. If their family members, who may have been partners or children under the age of 21, were also here before the end of December 2020, then at that point—it was a bit like census day—it did not matter whether they were outside the UK; under permitted absence rules, they could have been abroad for whatever reason but coming back. The point is about the definition of meeting free movement rules. They were resident here and effectively living under EU law, so they would be eligible for rights under the EU withdrawal agreement.

The issue is a technical one. There is a cohort described as the extra cohort, rather than the true cohort. The true cohort is those who were self-sufficient, studying or working, and therefore ticked all the boxes of meeting free movement rules. But those who, for example, were not in work on 31 December—they might have lost their job, or there was some other reason why they were not technically meeting the rules—are described as the extra cohort. While they were not technically meeting those free movement rules at that moment, we moved forward with citizens' rights after we left the European Union at the end of the transition period by treating those two cohorts as the same, as if it had been census day.

Those technicalities have meant that the withdrawal agreement rights apply completely to the true cohort, but arguably, given case law, have sometimes become a bit more complicated when applied to the extra cohort—who, as far as the UK is concerned, should be treated the same. It is important that we clarify in law that we treat the cohorts the same. At the end of December 2020 they might technically not have met all the definitions under the free movement rules, and therefore technically not have been complying with EU law, but for all intents and purposes they should still have their citizens' rights. The source of those rights is the withdrawal agreement. New clause 31 clarifies that so that we do not have case law challenging it or defining it differently.

It was always the UK's intention to treat those cohorts the same, but as case law has evolved it has become more difficult in practice. I thank other parliamentarians, including those in the other place, and stakeholders who have raised this issue. We want to ensure that there is clarity in law and that what we intend is actually the case. It is better all round to make the position clear. New clause 31 will mean that all EU citizens and their family members with status under the EUSS who were resident in the UK before the end of the transition period on 31 December 2020—I remind the Committee that we left the EU at the end of January 2020, but had the transition period until December 2020—will be considered beneficiaries of the withdrawal agreement and accordingly have rights in UK law. That is regardless of whether they belong to what I have described as the true cohort—the vast majority, who were compliant with all aspects of the free movement rules—or whether they technically did not and fell within what we have called the extra cohort. The new clause means that they all be able to rely directly on the rights in the withdrawal agreement for as long as they hold EUSS status. I am sure that, like all of us, Dame Siobhain, you consider it important for your constituents to have clarity about their rights in law.

The Government take citizens' rights very seriously, and we continue to work constructively with the EU to ensure that citizens' rights provisions in the withdrawal agreement are properly implemented in the UK and the EU. The EUSS opened on 30 March 2019, when the withdrawal agreement was still in draft; some of us still remember those slightly heady days and late nights. From the start, the UK's approach has been that, as the withdrawal agreement requires, all EU citizens resident in the UK before the cut-off date, which proved in the end to be the end of the transition period on 31 December 2020, are eligible for the EUSS, irrespective of whether they resided in the UK in accordance with EU law at the end of 2020. The EUSS, our scheme in the UK, does not therefore assess whether, at the end of the transition period, the EU citizen was exercising treaty rights in the UK by being a worker, self-employed, a student or self-sufficient, or whether they had an EU law right of permanent residence here, possibly on the basis of having spent five years working here.

The approach we took was fair and ensured a smooth transition. It was a priority for the whole of Parliament during that time that EU citizens with a right to be in the UK and British citizens in the EU did not have their lives disrupted by the consequences of Brexit. That approach has greatly simplified the operation of the EUSS, under which 5.7 million people now have status.

[Seema Malhotra]

It also simplified it for applicants and caseworkers. That is important, because we want consistency and accuracy in the processing of cases.

Just by virtue of these technicalities, two cohorts of EU citizens and their family members have status under the EUSS: the true cohort, who derived their rights from the withdrawal agreement, and the extra cohort, who were not within scope of the withdrawal agreement for technical reasons and derived their rights from domestic legislation. The UK has sought as a matter of practice to treat those cohorts the same in how we have interpreted and treated those cases in relation to their status in the UK, but as case law has evolved, very small technical points have had consequences where rights have been derived technically from the withdrawal agreement or domestic legislation.

The new clause will make the position clear in law. It removes the distinction in UK law between true and extra cohorts, making it clear that both are to be treated as if they were in scope of the withdrawal agreement at the end of the transition period in December 2020, meaning that they benefit from the rights contained in part 2 of the agreement.

12 noon

The new clause will also apply to the equivalent parts of the separation agreement with Iceland, Liechtenstein and Norway, and to the Swiss citizens' rights agreement. For example, an EU citizen resident in the UK before the end of the transition period—that is, December 2020—together with their family members with EUSS status, will be treated as being within the scope of the withdrawal agreement despite the fact that a significant gap in their employment in the UK before the end of the transition period means that, technically, they fell outside it. They will now be able to rely on the withdrawal agreement as the source of their rights in the UK. The new clause will confirm the equal treatment of the true and extra cohorts in UK law, removing any differences in treatment between them. It will reinforce the policy approach that has in fact been in place since the end of the transition period.

I turn briefly to other amendments in the group. Government amendment 22 is consequential on Government new clause 31, which, as I have said, will confirm as a matter of UK law what we have sought to do in practice since the EUSS was established—ensure that all EU citizens and their family members with status under the scheme have equal rights in the UK. Government amendment 25 is also consequential on Government new clause 31, and will ensure that it commences two months after Royal Assent.

Finally and briefly, clause 55 confirms that the extent of the Act will apply to England and Wales, Scotland and Northern Ireland. The appropriate elements listed under clause 55(3) also apply to the Channel Islands, the Isle of Man and the British overseas territories. Other measures within the Act, aside from those listed in clause 55(4), can be extended to the Isle of Man. Clause 56 confirms the Secretary of State's ability to specify, through regulations, when the Bill will come into force; that the measures listed under clause 56(3) will come into force on the day on which the Bill receives Royal Assent; and that those listed in clause 56(4) will come into force two months after Royal Assent. Clause 57 confirms that the Act may be cited in short form as the Border Security, Asylum and Immigration Act 2025.

Katie Lam (Weald of Kent) (Con): I do not think I missed it in the Minister's speech, although I apologise if I did. Can she advise on how many people have applied for and been granted settled status under the EU settlement scheme?

Sarah Bool (South Northamptonshire) (Con): I have another question for the Minister. I believe that she said that the true cohort had about 5.7 million applicants, but I wanted to understand more about the numbers of those who would fall under the extra cohort, given that they will be benefiting from rights. Can she give a little more of an explanation as to why the issue has come to light at this point, and was not in the original drafting?

Pete Wishart: I want to ask one simple question: does the Minister remember the good old days, when we had freedom of movement across the continent?

Seema Malhotra: I thank hon. Members for those comments. I can clarify the numbers that I have; if there is anything that we have not covered, I can make sure that Members are written to. I mentioned that 5.7 million people now have status, but 4.1 million have settled status and have met the requirements for that. On why the change has happened now, the main point is that the issue has been ongoing and we had to work out the best time to bring it forward. We have now been able to bring it forward as a new clause in the Bill.

Chris Murray (Edinburgh East and Musselburgh) (Lab): On the timing of this measure, does our experience not show us that it is better to do these things in advance rather than later, when migrants come out of the woodwork having been let down? That happened with the Windrush experience.

Seema Malhotra: I thank my hon. Friend for his question. I would probably put it slightly differently. This is an example of where we are being fair and generous—going beyond what was technically within the withdrawal agreement—because that is right for EU citizens who were here. In line with the approach that we took across the whole of Government, we should make sure that there is a smooth transition and security for EU residents here in the UK and also for British citizens in the EU.

I spent four years on the Committee on the Future Relationship with the European Union—I was a veteran, from the first meeting to the last. Early on, citizens' rights were important and central. Policy has sometimes become a bit more difficult because of case law—we cannot always predict where that ends up—so it is right that we look at where we can make the position clear in law, which is what we are doing today.

Katie Lam: Just to follow up on the numbers and check that I have understood this correctly, the Minister said that 5.7 million people have a grant of status, of whom 4.1 million people have settled status; presumably

the remainder have pre-settled status. Are those numbers entirely the true cohort? Are the numbers of people that we are talking about today extra to that?

Seema Malhotra: The hon. Lady asks a good question. The extra cohort is a minority in that. There are estimates. I am not sure whether I have here the estimate of the specific number of the extra cohort, which it is quite difficult to have an exact number on. But I will make sure that she is written to about the best estimate or the best way in which we can consider it. The extra cohort is a minority, but it is important that we clarify that their rights, too, are derived from the withdrawal agreement.

Katie Lam: I thank the Minister; that is very helpful. As I understand it, settled status under the EU settlement scheme entitles individuals to welfare payments, social housing, surcharge-free NHS care and more. Of those people who have been granted settled status, is the Minister or anyone in the Home Office—or indeed anyone anywhere in Government—making an assessment of how many of those individuals are net contributors to the public purse, and how many are a net cost to Britain's taxpayers?

Seema Malhotra: I will just make this point first. In a sense, the new clause will have a very limited impact on access to benefits for those with pre-settled status, or limited leave, under the EUSS. To access income-related benefits such as universal credit, they would be required to evidence relevant qualifying activity, such as current or recent employment or self-employment. Those with settled status, or indefinite leave, under the EUSS already have full access to benefits where eligible.

On the question asked by the hon. Member for Weald of Kent, I know there is broader research, and there is some data but not other data, and there are different estimates, but I am sure that she will know and appreciate that the vast majority will be working. Her question is also relevant to a more general question about those who are here and have settled status: how many are working? We know that there is different research, but the vast majority are self-sufficient.

Tom Hayes (Bournemouth East) (Lab): I refer the Committee back to the oral evidence that we heard at the very start of our work. Experts were asked whether they felt that the available immigration data, which could have been improved over 14 years, was robust enough for making strong assertions. Time and again, we heard from experts that it is very hard to make assessments about the net benefit or net cost of immigration flows into our country. Do the Government intend to work alongside the Migration Advisory Committee to improve the quality of immigration data so that we can make such assessments on a more robust footing?

Seema Malhotra: Indeed, it is important to have data that can inform policymaking and public debate. This is a separate matter to the one of those who come to work, settle and contribute to our economy and society, which I know we all want to see—that is indeed what we see in our constituencies—but it is also important that those who come through humanitarian routes are supported to access employability skills and employment, so that they can support themselves and their families. It is important that we look at how joined-up we are and to what extent that support is in place.

Amendment 22 agreed to.

Amendments made: 23, in clause 55, page 56, line 29, after "to" insert

"any of the Channel Islands or".

This amendment enables certain provisions of the Bill to be extended by Order in Council to any of the Channel Islands.

Amendment 24, in clause 55, page 56, line 31, after second "to" insert

"any of the Channel Islands or".—*(Dame Angela Eagle.)*

This amendment enables certain amendments and repeals by the Bill to be extended by Order in Council to any of the Channel Islands.

Clause 55, as amended, ordered to stand part of the Bill.

Clause 56

COMMENCEMENT

Amendment made: 25, in clause 56, page 57, line 15, after "35" insert

", (EU Settlement Scheme: rights of entry and residence etc)".—*(Dame Angela Eagle.)*

This amendment to the commencement clause has the effect of bringing NC31 into force 2 months after Royal Assent.

Clause 56, as amended, ordered to stand part of the Bill.

Clause 57 ordered to stand part of the Bill.

New Clause 30

CONDITIONS ON LIMITED LEAVE TO ENTER OR REMAIN AND IMMIGRATION BAIL

"(1) The Immigration Act 1971 is amended in accordance with subsections (2) and (3).

(2) In section 3(1)(c) (conditions which may be applied to limited leave to enter or remain in the United Kingdom)—

(a) omit the 'and' at the end of sub-paragraph (iv), and

(b) at the end of sub-paragraph (v) insert—

'(vi) an electronic monitoring condition (see Schedule 1A);

(vii) a condition requiring the person to be at a particular place between particular times, either on particular days or on any day;

(viii) a condition requiring the person to remain within a particular area;

(ix) a condition prohibiting the person from being in a particular area;

(x) such other conditions as the Secretary of State thinks fit.'

(3) Before Schedule 2 insert—

'Schedule 1A

Electronic monitoring conditions

1 For the purposes of section 3(1)(c)(vi), an "electronic monitoring condition" means a condition requiring the person on whom it is imposed ("P") to co-operate with such arrangements as the Secretary of State may specify for detecting and recording by electronic means one or more of the following—

(a) P's location at specified times, during specified periods of time or while the arrangements are in place;

(b) P's presence in a location at specified times, during specified periods of time or while the arrangements are in place;

(c) P's absence from a location at specified times, during specified periods of time or while the arrangements are in place.

2 The arrangements may in particular—

(a) require P to wear a device;

(b) require P to make specified use of a device;

(c) require P to communicate in a specified manner and at specified times or during specified periods;

(d) involve the exercise of functions by persons other than the Secretary of State.

3 If the arrangements require P to wear, or make specified use of, a device they must—

(a) prohibit P from causing or permitting damage to, or interference with, the device, and

(b) prohibit P from taking or permitting action that would or might prevent the effective operation of the device.

4 An electronic monitoring condition may not be imposed on a person unless the person is at least 18 years old.

5 In this Schedule "specified" means specified in the arrangements.'

(4) In Schedule 10 to the Immigration Act 2016 (immigration bail), in paragraph 2(1) (conditions of bail), after paragraph (e) insert—

'(ea) a condition requiring the person to be at a particular place between particular times, either on particular days or on any day;

(eb) a condition requiring the person to remain within a particular area;

(ec) a condition prohibiting the person from being in a particular area;'".—*(Dame Angela Eagle.)*

This new clause makes provision about the conditions which can be imposed on a grant of leave to enter or remain in the United Kingdom or a grant of immigration bail.

Brought up, and read the First time.

12.15 pm

Dame Angela Eagle: I beg to move, That the clause be read a Second time.

The new clause encompasses the conditions that can be attached to permission to enter or stay and immigration bail. Where a person is liable to be detained, for example because they are in the UK without the required permission or are subject to deportation proceedings, they may be placed on immigration bail. Where appropriate and in accordance with our European convention on human rights obligations, those on immigration bail can be subject to measures such as electronic monitoring and curfews.

Where a person does not qualify for asylum or protection under the refugee convention but cannot be removed from the UK because of our obligations under domestic and international law, they are granted permission to stay. Irrespective of the threat posed by the person, our legislation prevents us from imposing the same conditions that they may have been subjected to while on immigration bail.

The new clause will end that disparity in the powers available to protect the public from the particular migrant who poses a threat. It also makes crystal clear the conditions that may be imposed when a person is subject to immigration bail.

Matt Vickers: The new clause makes provision about the conditions that can be imposed on a grant of leave to enter or remain in the United Kingdom or a grant of immigration bail. The new conditions focus primarily on electronic monitoring, and we are supportive of those. However, given that the Government are repealing the provision passed by the last Conservative Government to mandate scientific age assessment, I am interested to know how they intend to ensure that the requirement that an electronic monitoring condition

"may not be imposed on a person unless the person is at least 18 years old"

can be delivered. As the Minister may have noticed, I am deeply concerned about the repealing of mandatory scientific age assessment provisions, and this is another reason why. Can she give us any timetable for when the Government might return to the issue?

Pete Wishart: I am a little disconcerted by this new clause. It is disappointing that it was introduced so late in proceedings; it should have been included in the Bill as presented on First Reading. Regardless of that, the new clause seems to fit a trend that I have detected with this Bill: there seems to be a cavalier attitude, approach and relationship with international obligations and some of our human rights commitments. Whereas I think everybody would accept that we want to target high-risk criminals and offenders, and the Government require the necessary powers to do that, they do admit that there are issues to do with the ECHR. I want to hear the Minister explain clearly what she means by high harm and risk. I think she has to give the Committee examples of the type of person who would fall foul of the new clause.

Human rights protections are in place for really good reasons. They have been designed and concocted to ensure that people get the protections regardless of what they may have committed in the past. We muck about with them at our peril. All that this cavalier approach to human rights will do is encourage those who want to get rid of our international obligations and our human rights entirely. I am looking at my Conservative friends; this does nothing other than encourage them and push this Government to go further.

We need to hear from the Government what they actually mean by the new clause. Given this watering-down of our commitments, we need to hear a real commitment from the Government that they stand by our international obligations and everything that is included in human rights for everybody we have a responsibility and obligation for.

Margaret Mullane (Dagenham and Rainham) (Lab): It is an honour to serve under your chairmanship, Dame Siobhain.

I disagree with the hon. Member for Perth and Kinross-shire. Given what we have seen play out in the last few weeks, I welcome the measures outlined in the new clause, which answers some of the issues highlighted by new clause 44, which was tabled by the Opposition.

I draw attention to the amendment of section 3(1)(c) of the Immigration Act 1971, which would put in a place a robust suite of measures to monitor and manage those coming into our country. Let us not forget that the new clause focuses on those who are coming here illegally and who are known to have been involved in criminality. The use of curfews, as well as inclusion and exclusion zones, with the possibility of extending conditions where the Secretary of State sees fit, will be a marked improvement on the incoherent approach currently in use. As we have debated in previous sittings, the provisions

in the Illegal Migration Act 2023 and the Safety of Rwanda (Asylum and Immigration) Act 2024 are not fit for purpose.

I believe that new clause 30, with greater intelligence and the duties of co-operation outlined in clause 5 relating to the role of the Border Security Commander, will create a foundation for better communication and data sharing between our intelligence agencies and their international counterparts. I feel that it will greatly improve on the current situation, in which, in the past few weeks, criminals and those with links to terrorist organisations have entered the country with limited restriction under the flawed legislation of the previous Government.

Jo White (Bassetlaw) (Lab): It is a pleasure to serve under your chairmanship, Dame Siobhain.

I agree with my hon. Friend the Member for Dagenham and Rainham and I welcome the new clause. British citizens must be safe, and they need a Government who act to protect them. I believe that the new clause will give them reassurance that we have the ability to impose tight controls and monitoring of an individual if it is deemed necessary by the authorities. We must have legislation that puts the security of our country at the top of the agenda, and the new clause gives the police the powers to impose electronic monitoring, curfews and movement bans on people who are perceived to be a threat when ECHR obligations are protecting them.

Tom Hayes: I want to comment briefly on the speech by the hon. Member for Perth and Kinross-shire. I understand the importance of being sensitive to possible infringements and abuses of international law; indeed, in recent years, we have seen states around the world traducing it. However, I gently say to him—I hope it has not missed his attention—that the Prime Minister is a lawyer and, as a consequence of that background, he is deeply wedded to the law. In most of his speeches and statements, he refers consistently to the importance of the UK being a leader on the world stage by respecting international law.

I say that because the Committee has just repealed the Safety of Rwanda Act, which was deemed unlawful by the courts. We have a Prime Minister who deeply respects international law; around the world, we have states and actors who traduce it. Having a Prime Minister and a country that are so committed to it at this point in history is really important. I gently say to the hon. Member that it is important that we are sensitive to possible infringements of international law, but we ought not to overplay the possibility of it happening here in our country, when all the evidence from the last eight months should give us confidence and hope.

Matt Vickers: I would be interested in the Minister's assessment of the operational utility of the new clause. What impact do the Government expect it to have on lowering the rate of abscondence from immigration bail?

Dame Angela Eagle: We have had a small but perfectly formed debate on the new clause. I seek to reassure the hon. Member for Perth and Kinross-shire and explain to those who have made contributions the effect of the provisions.

I say gently to the hon. Member that the Bill is in compliance with international human rights laws. The powers in the new clause are necessary to protect the public from a very small cohort of migrants who pose a threat to them, but who cannot be removed because of our obligations under domestic and international law. In other words, they exist only because we are observing our obligations under international law. If we were simply to ignore international law and seek to deport people against the standards of international law to which we have signed up, we would not need to have these extra powers. We are debating new clause 30 only because we are adhering to international law. The hon. Member says that we are being cavalier about our commitment to adhering to international law. I gently say that he has got it pretty wrong.

In these cases, we will continue to frequently assess each person's circumstances to ensure that they are removed at the earliest opportunity from measures such as a requirement to report, a curfew or electronic tagging, if it is safe to do so from the point of view of protecting the public. The powers will be used only in cases involving conduct such as war crimes, crimes against humanity, extremism or serious crime, or where the person poses a threat to national security or public safety. That is a pretty high bar.

The idea is that if somebody is on immigration bail and we are trying to detain them to deport them, but it transpires that we cannot deport them because of the threat to their safety and they have to be looked after here, it is wholly proportionate, if they present a real threat to the public, that the powers to electronically tag them or subject them to exclusion or inclusion zones can be attached to them. We are talking about people who come off immigration bail because we cannot deport them and, without the new clause, would suddenly find themselves much freer to cause the damage that we fear they may cause if they are left unwatched. That is the very narrow purpose of the new clause in the circumstances that I have talked about. To impose these tough restrictions there has to be a proportionality test, and of course all that is testable in law.

We are seeking to make certain that we can satisfy ourselves, more than we can at present, that that small category of people who, on a case-by-case basis, will be assessed to present this kind of risk can be properly managed and watched. In those circumstances, I hope that the Committee will agree to add the new clause to the Bill.

Question put and agreed to.

New clause 30 accordingly read a Second time, and added to the Bill.

New Clause 31

EU Settlement Scheme: rights of entry and residence etc

"(1) For the purposes of this section 'relevant citizens' rights' means the rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

(a) are recognised and available in domestic law by virtue of

section 7A or 7B of the European Union (Withdrawal) Act 2018, and

(b) are derived from—

(i) Title 2 of Part 2 of the withdrawal agreement or Title 1 or 4 of Part 2 of that agreement so far as relating to Title 2 of that Part,

(ii) Title 2 of Part 2 of the EEA EFTA separation agreement or Title 1 or 4 of Part 2 of that agreement so far as relating to Title 2 of that Part, or

(iii) Article 4(2), 7 or 8 or Chapter 1 of Title 2 of Part 2 of the Swiss citizens' rights agreement or Title 1 of Part 2 of that agreement so far as relating to Chapter 1 of Title 2 of that Part.

(2) Subsection (5) applies to a person ('P') where—

(a) P has leave to enter or remain in the United Kingdom granted by virtue of residence scheme immigration rules,

(b) the leave was granted to P on the basis of requirements which included that P is a relevant national or is (or was) a family member of a person who is (or was) a relevant national,

(c) each of the requirements on the basis of which P's leave was granted was in fact met,

(d) either—

(i) in a case where P's leave was not granted on the basis that P is (or was) a joining family member of a relevant sponsor, P was resident in the United Kingdom or the Islands immediately before the end of the implementation period, or

(ii) in a case where P's leave was granted on the basis that P is (or was) a joining family member of a relevant sponsor, the relevant sponsor was resident in the United Kingdom or the Islands immediately before the end of the implementation period, and

(e) the residency mentioned in paragraph (d) was not relevant residency.

(3) For the purposes of subsection (2)—

(a) a person is to be treated as a family member of another person if they are treated as the family member of that person by residence scheme immigration rules;

(b) 'joining family member' and 'relevant sponsor' have the same meaning as in residence scheme immigration rules;

(c) a person is to be treated as resident in the United Kingdom or the Islands immediately before the end of the implementation period even if they were temporarily absent from the United Kingdom or the Islands at that time if their absence was permitted for the purposes of establishing or maintaining eligibility for leave under residence scheme immigration rules;

(d) 'relevant national' means a national of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or Switzerland.

(4) In this section 'relevant residency' means—

(a) residency in accordance with Union law (within the meaning of the withdrawal agreement),

(b) residency in accordance with the EEA Agreement (within the meaning of the EEA EFTA separation agreement), or

(c) residency in accordance with the FMOPA (within the meaning of the Swiss citizens' rights agreement).

(5) Relevant citizens' rights—

(a) are capable of accruing and applying to a person to whom this subsection applies notwithstanding that the residency mentioned in subsection (2)(d) was not relevant residency, and

(b) are to be enforced, allowed and followed accordingly.

(6) Every enactment (including an enactment contained in this Act) is to be read and has effect subject to subsection (5).

(7) In this section—

'EEA EFTA separation agreement' has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);

'enactment' has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1) of that Act);

'the implementation period' has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 1A(6) of that Act);

'the Islands' means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;

'residence scheme immigration rules' has the same meaning as in Part 3 of the European Union (Withdrawal Agreement) Act 2020 (see section 17 of that Act);

'Swiss citizens' rights agreement' has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) of that Act);

'withdrawal agreement' has the same meaning as in the European Union (Withdrawal Agreement) Act 2020 (see section 39(1) and (6) of that Act)."—*(Seema Malhotra.)*

This new clause ensures that an EEA or Swiss national or their family member who has immigration leave granted under the EU Settlement Scheme can enforce residency and other rights directly under the withdrawal (or other separation) agreement even if the person, or their family member, was not resident in the UK or the Islands in accordance with Union (or other equivalent) law at the end of the implementation period.

Brought up, read the First and Second time, and added to the Bill.

New Clause 1

Duty to publish a strategy on safe and managed routes

"(1) The Secretary of State must, within six months of the passing of this Act, publish a strategy on the Government's efforts to establish additional safe and legal routes for persons to seek asylum in the United Kingdom.

(2) A report under subsection (1) must be laid before Parliament."—*(Pete Wishart.)*

This new clause would require the Secretary of State to publish and lay before Parliament a strategy on the development of safe and managed routes for people to seek asylum in the UK.

Brought up, and read the First time.

Pete Wishart: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 6—*Additional safe and legal routes*—

"The Secretary of State must, within six months of the passage of this Act, make regulations specifying safe and legal routes through which refugees and other individuals requiring international protection can enter the UK lawfully."

This new clause would require the Secretary of State to make regulations specifying additional safe and legal routes, under which refugees and others in need of international protection can come to the UK lawfully from abroad.

Pete Wishart: The Government's intention with the Bill is, as we have heard on numerous occasions—practically ad nauseam—to smash the gangs and disrupt their business model. In their attempt to do that, they have focused the Bill exclusively on what Ministers and various other Labour Members have called "deterrence measures". That seems to include the further criminalisation of a number of new offences, and the extreme and exclusive

focus on asylum seekers. Throughout the Committee's proceedings, we have been encouraged to believe that all this is necessary for the Government to secure their objectives. We will see in time whether they are successful, but I have my doubts; the Bill is pretty much the same as others I have seen over the past 20 years.

The reason it is likely to fail is that what is entirely missing is the stark reality of those making the journey themselves. There is not even the remotest bit of curiosity as to why people are making such dangerous crossings or why they are prepared to put themselves and their families at such huge risk. Asylum seekers do not want to be at the mercy of these gangs and this vile trade—of course they don't—but other than a few distinct and narrowly defined legal routes, asylum seekers are completely and utterly dependent on, and at the mercy of, the gangs.

12.30 pm

The Government have designed a series of further criminalisation clauses that they hope will disrupt and smash the supply side of the small boat equation, but they have done utterly nothing to tackle the demand side of the equation. The demand side is the increasing number of asylum seekers and refugees who get on these small boats in the first place. Does it not interest the Government that so many people are using these small boats to come to the UK in the first place? What are the conditions that compel people to make a dangerous journey of thousands of miles to then get on a flimsy and probably unseaworthy boat to cross a frozen channel? Surely that is worth just a little bit of attention. Something in this Bill should take into account that situation and those conditions.

There is no way of someone claiming asylum in the United Kingdom unless they are in the United Kingdom, and the only way to get to the UK for nearly all asylum seekers is to board one of those small boats, organised in most cases by an illegal gang. These gangs have a monopoly on this business. They have exclusive rights to the irregular migration trade and, for them, business is booming. I will tell you something, Dame Siobhain: it is only going to get more lucrative for them, as international aid is cut by this Government and other Governments across the rest of the world, putting even more pressure on these particular regions.

Increasingly in this Committee, we are trying to anticipate what the Ministers are going to say, and usually I have been pretty good at that. *[Interruption.]* The Minister for Border Security and Asylum is pointing to the Under-Secretary of State for the Home Department—I know what she is going to say, because she replied directly to a question I asked about this. They always point to the fact that we have a safe route from Afghanistan but Afghanis still made up the largest group of people who came across the channel the last year. That is a fair point, but one group we never hear about when it comes to this is Ukrainians. We know of only five Ukrainians who have crossed the channel irregularly. That suggests to me that the Ukraine safe route scheme works.

Tom Hayes: Will the hon. Gentleman reflect on the statistics that show that around 90% of people crossing the channel are men, and on the fact that men in Ukraine are typically committed to fighting the Russian invasion?

Pete Wishart: That may well be the case, but I suggest to the hon. Member that Ukrainians are not getting on small boats across the channel because they have an effective and efficient safe route to get to this country that is not available to most other nations. There is no safe route, for example, for Eritreans or Sudanese people. There is just nothing available. The only means they have to get to the UK are small boats.

There is also the Hong Kong scheme. We do not see very many people from Hong Kong getting on board small boats to come across because, again, they have an efficient, effective scheme that is inclusive and deals with most of the problems. The Ministers also say that safe routes will do nothing to stop people getting on small boats and nothing to stop these journeys. No one is claiming that the establishment of safe routes would end all unsafe journeys. I do not believe that that is the appropriate test. It would not end small boat crossings, just as Ministers do not make ending all people smuggling and human trafficking the test of this new Bill, and their policy of smashing gangs and stopping the boats.

Safe routes cannot be expected to end all dangerous journeys or exploitation by smuggling gangs, and their capacity to reduce them depends on their accessibility. We also support safe routes because they are morally right—it is the right thing to do—and because safe routes save lives. The more available and accessible safe routes are, the more lives will be saved. Safe routes undercut smuggling gangs. The more available and accessible they are, the more they will do for the effort to smash the gangs and the people involved in this vile trade.

We have discussed the whole Bill in the last two weeks and it focuses primarily on increasing offences. Although tackling organised crime is necessary, it addresses only one side of the problem. Without safe routes, desperate people will continue to attempt dangerous crossings. We have a choice in front of us. We can continue with a range of policies that ignore the root causes of these journeys, or we can take meaningful action: expand safe routes, uphold our humanitarian commitments and make migration safer and more manageable. A truly modern and compassionate asylum system must include safe routes as a central pillar as well as all the other things this Government want and intend to do. Surely we should be looking to save as many lives as we can, and we know that safe routes save lives.

Chris Murray: It is a pleasure to serve under your chairship, Dame Siobhain. I have listened with interest to the points made by the hon. Member for Perth and Kinross-shire. We need to go back to the evidence we heard from the researcher from the Migration Observatory who I keep quoting. He said that demand for channel crossings is essentially "inelastic". The hon. Gentleman is predicating his argument on tackling the demand side of the equation. We have been told by the experts that policy will have only a limited impact on the demand, and that is particularly salient when we think about safe routes.

The hon. Gentleman is quite correct; we already have safe routes in this country. We have the Afghan scheme, but because that is not available to everyone from Afghanistan, some of those who are not eligible come across on unsafe routes. Although the Ukrainian and Hong Kong schemes are not specifically refugee schemes —they are analogous, I accept that point—they are

[Chris Murray]

open to a much broader cohort of people. There are some 254,000 Ukrainians and 120,000 Hong Kongers in the UK right now. Those figures are off the top of my head; I am ready to be corrected. It is because of the comprehensiveness of that safe route that we see such high numbers in the declines in the channel.

If we followed the hon. Gentleman's advice, we would fall into the same logical trap as the Conservatives did with the Rwanda scheme. With Rwanda, the so-called message to the migrants was, "Don't get on a boat—there's a 1% chance that you'll be sent to Rwanda." First, it was not credible. Secondly, it clearly had no impact on people's decision making. The hon. Gentleman is proposing that we say, "Don't get on a boat—there's a 1% chance that you can come in on a safe route." I would argue that that would have the same impact on people crossing the channel.

The only way we could have a safe routes phenomenon would be to open them to a select group of people from a select few countries. That would basically be deciding who we thought was the most deserving and who was not, which is not how the refugee system should work. People's cases should be judged on their merits and on individual circumstances. People can come from ostensibly safe countries but face things such as LGBT discrimination. People could be from a country at war but ineligible because they are one of the perpetrators of that war. We need to judge people on their cases.

Finally, the hon. Member for Perth and Kinross-shire said that safe routes are the only way to stop people getting on boats and freezing in the channel. Let us be really clear: that is the whole purpose of the Bill. However, the channel crossings are a new phenomenon. They were not happening five or 10 years ago, when we did not have safe routes either. The way to tackle people getting on those boats is by tackling the supply of boats and ways to cross the channel by tackling the gangs. Safe routes may have other values, but not for the purposes of stopping channel crossings.

Mr Forster: I am happy to support new clause 1—in fact, I enthusiastically support it. The challenge of speaking after the hon. Member for Perth and Kinross-shire is that most of the things worth saying have already been said. In the evidence session I highlighted that safe and legal routes are a key part of us tackling the problem. The Ukrainian scheme is a clear example of success, as is the Hong Kong scheme, yet this Government, like the last one, seem reluctant to go down that route.

Tom Hayes: Does the hon. Gentleman agree that it is important, as my hon. Friend the Member for Edinburgh East and Musselburgh was just saying, that we listen to the refugee voice and think more broadly about what asylum seekers and refugees actually want?

In a previous life, I worked for an international development charity where I led UK campaigning on safe and legal routes. In so doing I took away a major learning, which is that the UK cannot be overwhelmingly the country that receives refugees and asylum seekers via safe and legal routes. That is in part because the UK alone cannot be asked to shoulder such a large responsibility, but also because many asylum seekers and refugees wish to return home and therefore want to be located in a safe country that is nearer to their home country. Is it not right that we think about this in a broader and international sense, rather than assuming that the UK has to always be the country that shoulders the responsibility, when there are other ways that we can support?

Mr Forster: I have some sympathy for what the hon. Member says. We talked about listening to the refugee charities. One of the notes that I made of our evidence session is that they criticised the Bill as only being half the story—saying that it tackles the supply but not the demand. They said that we needed an integrated approach, and to them this Bill was not that; it was a blunt instrument. They were sympathetic to some of the Bill, but they said that it will not fully solve the things that we want to solve.

I have sympathy with the hon. Gentleman's point that it might not be a full solution if the UK is the only country to agree safe and legal routes; but we made an agreement with Europe agreed about the Ukrainians. The hon. Member could have tried to amend the new clauses to say that the Government should be working with international partners to introduce safe and legal routes, but it seems that the Government want to dismiss any discussion of safe and legal routes whatsoever, even if working with partners.

Tom Hayes: Is it not the case that the Government do not think that primary legislation is the way to secure international negotiation about safe and legal routes? Actually, those conversations will be happening with the Government and partners. In fact, one of the highlights of having a new Government is a reset of our relationship with the European Union, which—in time, once it matures and restores—can help in negotiations for better routes for humanitarian assistance and support. Primary legislation is not needed for everything.

Mr Forster: I would really like to hear the Minister confirm that the Government are going to work with international partners to encourage a co-ordinated programme on safe and legal routes. One option, I would hope, is to agree to the new clause, but if the Government will not agree with this version, will they agree to consult on how to introduce safe and legal routes with partners? I am trying to be as moderate and practical as possible. A lot of requests from MPs do not require immediate action, but they do require the Government to consult. Is that something that the Minister would consider?

Mike Tapp: I thank my hon. Friend the Member for Bournemouth East for making a compelling argument around the balance between our decency and humanity and not creating a pull factor that will cause more risk. I draw the Committee's attention to our work as a Government with the United Nations High Commissioner for Refugees, which has resettled individuals from Ethiopia, Iraq, Sudan, Syria, Afghanistan, Eritrea, Somalia, South Sudan and Yemen. Combined with the other resettlement routes that we have in place, such as family reunion, the Afghan relocations and assistance policy, and the Hong Kong and Ukraine schemes, we have resettled over half a million individuals since 2015—I do not know the exact stats. There are ways to come here safely for people who need it.

When it comes to illegal migration, it is important that we take out the smuggling gangs. The Bill will help us do that with disruptive measures so we can get there first. This counter-terror approach is the right way.

Matt Vickers: SNP new clause 1 and Liberal Democrat new clause 6 seek to establish, within six months of the passage of this legislation, safe and legal routes through which refugees and other individuals can enter the UK. As the hon. Member for Perth and Kinross-shire said, it was very good that the previous Conservative Government set up the Afghan resettlement programme, which was a route that Afghans could use to come to the UK. However, in that same year, 2022, over 8,000 Afghans arrived on small boats—the second-highest number of people by nationality. The trend has continued, as Afghans were the top nationality arriving by small boats in 2023 and 2024. This shows that safe and legal routes do not necessarily lead to an end to crossings in small boats. The point is especially important now, as the EU has begun to take action to tackle illegal migration, such as looking again at the 1951 refugee convention.

12.45 pm

I ask hon. Members what criteria they would seek to apply to the establishment of additional safe and legal routes. What safe and legal routes do they believe should be in place that are not already? Have they made any assessment of the increase in numbers of people coming to the UK that might result from their new clauses? The SNP and Liberal Democrat plans risk the UK becoming a magnet for people across the world at a time when our allies in Europe are looking at curbing asylum policies. How do the SNP and the Liberal Democrats plan to stop us becoming the soft touch of Europe? Do they believe that British taxpayers should be paying more than their European counterparts if asylum seekers start coming to the UK in large numbers amidst the crackdown in the EU?

Katie Lam: The fundamental question of safe and legal routes seems to be that of how many people the hon. Member for Perth and Kinross-shire thinks Britain might need to let in to achieve the aims he sets out. There are over 120 million people in the world who have been displaced from their homes, of whom nearly 50 million are refugees. That is nearly three quarters of the population of this country. On top of that, the 1951 refugee convention now confers the notional right to move to another country upon at least 780 million people, for—as well as internationally displaced refugees and modern slaves—there are all those who could potentially face a well-founded fear of being persecuted for reasons of race, religion, nationality, or membership of a particular social group or political opinion, who may flee their home country. Some of those people—many of them, perhaps—are living lives that might seem to us in the UK unspeakably and unthinkably hard and sad. It is also true, though, that there is a limit to what this country is able to do to help through migration. The answer to global suffering cannot be that all those people come here.

New clause 1 calls for a strategy on safe and managed routes, but that does not reflect the challenge of these routes and the way that they are created. By their very nature, specific asylum routes are often opened up in response to specific circumstances: usually, emergencies that could not be foreseen and anticipated in a neat strategy. The hon. Member for Dover and Deal is right to highlight the work this country does with the UN to identify those in the world in the greatest need of our help and where that help, in the form of resettlement, would be most appropriate. It seems to me that it would be impossible to publish in advance a strategy for something that is mostly centred around emergencies that cannot be foreseen.

Pete Wishart: This has been a very good debate and we have got to the heart of some of the issues. I will push the new clause to a vote because, of all the things that those involved with the welfare of and looking after refugees and asylum seekers tell us, their main ask of this Government is to look at a strategy for safe routes. I think we are getting to the equation at the heart of all the issues that we are considering today: the demand side and the supply side.

We are supporting Government measures to ensure that they tackle the demand side—they might have useful armoury, like this Bill, to achieve that—but surely we should give even scant attention to the supply side: the reasons that so many people are coming here. The fact is that they have no other option but to get on an unseaworthy boat to sail across the channel to get to the UK, as they can only make a claim for asylum when they are based in the UK.

I am not asking the Government to open the country up to 247 million refugees. That would be absurd and ridiculous. I do not think anybody is suggesting that at all. All we are asking is for the Government to see if they could do something more to ensure that there are routes available for some of the most wretched people in the world who are looking to come to the United Kingdom, and that we do not leave them exclusively at the mercy of the people that I know the Government are sincere in wanting to tackle.

Katie Lam: Might the hon. Gentleman tell us how many people would be satisfactory for him and what he is trying to achieve?

Pete Wishart: That is a very difficult thing to say. We have some rough ideas when it comes to the Ukraine and Afghan schemes. These schemes are really worth while. We have seen them work, because there are no Ukrainians crossing the channel—we have had five individuals. It is absurd and ridiculous to suggest that every single refugee in the world is going to come, but the Government—we passed this in a clause earlier—are putting a cap and a quota on people using these safe routes. They are not interested in opening up and developing these safe routes; they want to stop and put a quota on people using them.

Tom Hayes: Does the hon. Gentleman acknowledge that there is not a binary choice between, on the one hand, safe and legal routes to the UK, and on the other, getting into a death machine boat to reach the UK? Actually, we could have refugees and asylum seekers who travelled through safe and legal routes to other countries.

Pete Wishart: Absolutely. I think we are starting to get into territory where there is general agreement. With these amendments, we are asking the Government to

[Pete Wishart]

look at what more they could do to achieve their clear objective of smashing the gangs. The gangs are successful and will adapt to whatever is put in their way by the Bill. These people know how to work this business. People have said it has only been going five years, but this business is developing at pace. They will amend their business model and practice to adapt to whatever the Government throw at them in the new criminalisation clauses. Their trade will probably get more lucrative as a response, so let us beat them. Let us take them on. Let us really spike their business model by offering an alternative way and means to secure entry to the UK so asylum can be claimed. All we are looking for is an opportunity to develop this and have a conversation.

Chris Murray: Does the hon. Gentleman accept that it is the same dynamic as the Rwanda programme? If we are offering only 1% of people safe routes, it is the same as saying to 1% of people that they will be sent back. The impact on those people's decision making is exactly the same.

Pete Wishart: I have been listening very carefully to the hon. Gentleman, and I have been impressed by his contributions thus far in public, but it is utterly absurd and ridiculous to suggest that offering safe routes is somehow on a par with the Rwanda scheme. It disrespects the hon. Gentleman's case to suggest there is any similarity about this. We are trying to ensure that the business model of the gangs will be smashed and tackled.

Matt Vickers: Who and where does the hon. Gentleman see the scheme applying to? It is very easy to go along with the case for compassion, but who and where? The hon. Gentleman says that he cannot give an indication of numbers or costs, but who are the priorities, and who exactly will benefit from such a scheme?

Pete Wishart: If we look at the international situation, we know the hotspots and the areas and issues that have difficulty, because there are people queuing up in France to come to the United Kingdom. Safe routes should not be the only solution; they are part of a solution. We also have to look at what we are doing on the ground in these countries about particular difficulties and issues. We seem to be making the situation 10 times worse by withdrawing international aid from a number of these countries, which will only put more pressure on these areas. The scheme is part of a package. It looks at the criminalisation clauses and uses safe routes as a means to assist that process, getting involved in countries where there are difficulties and issues and trying to help resolve the tensions and difficulties there. For every single organisation that works with refugees and asylum seekers and is concerned about their care, this is their main ask. We should listen to them.

Sarah Bool: The hon. Gentleman speaks passionately and with a great deal of compassion, which I respect, and I understand his point. However, I return to the point from this side of the Committee, which is that there is a limit to how many people we can look after and help. We also owe a duty to those who have already come into the country, and a duty to our own population, to offer them services. There is currently a real stretch, and I think that, without knowing the details about how many, and where they will come from, we will really struggle.

Pete Wishart: *rose—*

The Chair: Before I take an intervention from the hon. Member for Perth and Kinross-shire, does the Minister want to contribute?

Seema Malhotra: Thank you, Dame Siobhain. It is a pleasure to speak to these new clauses, and to acknowledge the genuine questions and important aspects that have been raised in the debate so far. In particular, I thank the hon. Members for Perth and Kinross-shire and for Woking for tabling the amendments. Contributions also came from my hon. Friends the Members for Edinburgh East and Musselburgh and for Dover and Deal and from the Opposition.

The point I want to make on this subject is in response to both new clauses, although I recognise the slight differences. New clause 1 seeks to require a strategy, laid before Parliament, for the development of safe and managed routes for people to seek asylum in the UK, and new clause 6 seeks to require the Secretary of State to

"make regulations specifying additional safe and legal routes".

The hon. Member for Perth and Kinross-shire said that he was pretty good at predicting the responses from colleagues. I gently suggest that I might say some things that he may not expect about certain aspects of the subject. That is because some parts of what we currently do have not been raised at all in the debate. They are in relation to safe and legal routes, and how they are working, outside the Afghan, Ukrainian and Hong Kong schemes. I want to go through those points because they are important.

I also make a broad point in relation to, in particular, the comments and the question from the hon. Member for Woking about consideration and having a conversation. The Government will, as he knows, shortly set out our approach to immigration as part of considering how we bring down net migration, tackle abuse and put more controls in the system. The system has lost public confidence. I think we all know—the Conservatives themselves have acknowledged it—that we lost control of immigration. The system was and is chaotic. It is not just a problem in relation to how people feel about an immigration system that is not fair, controlled or managed; it is about the consequences for individuals, such as asylum seekers caught up in backlogs. Their lives are on hold until their claim is considered.

It is important to return to the subject of the utter chaos that the whole system has been in, and why the Bill is important to what we are looking to do to strengthen our borders and go after the smuggling gangs, which hon. Members have mentioned. Those gangs do so much damage to the lives of migrants. They also undermine our border security and make money—millions—from putting lives at risk. It is important that we look at how we are tackling the demand. Several hon. Members made that important point. I was surprised that the hon. Member for Perth and Kinross-shire did not talk about going even further with what he is suggesting.

1 pm

It is absolutely right that the international community should look at how we stem the demand. Some of that is about looking in a more integrated way—with the Government as a whole, with the work of the Foreign Office, and the work that we do with nations around the world—at the increasing challenge of global displacement and seeking to address those root causes. How do we continue to offer resettlement in line with the UK's capacity to welcome and integrate refugees?

The work that needs to happen on how we perceive our role in the world is important, because with climate and conflict there is increasing risk of displacement in the future. We must work to tackle what those risks and where those locations could be. UNHCR data analysis tracks where a conflict begins, what displacement may happen, and who might be on the boats in the next year or two. That is why it is important to think about how we deal with those who may feel forced to leave where they are for safety or environmental reasons, such as flooding or other climate issues. Those topics featured at the United Nations Commission on the Status of Women this week. It is important because it affects whole families, children, education, where people are settled, their homes, their work and so on. In tackling the demand side, I encourage the hon. Member for Perth and Kinross-shire to participate in the broader strategic debates that look at what could be coming in the future.

The UK has a strong history of protecting those who flee war and persecution around the world. We operate several global safe and legal routes for refugees, in partnership with the UNHCR. It is through the UK's resettlement scheme that we can respond to developing crises anywhere in the world. The UNHCR refers individuals for resettlement in accordance with their standard resettlement submission criteria, which are based on an assessment of protection needs and vulnerabilities. The UK does not seek to influence the cases that the UNHCR refers to us, and our resettlement schemes are not application based. It is important to note that the UK partners with the UNHCR to resettle the most vulnerable refugees through our existing routes. It is the UNHCR, independently of us, which identifies refugees registered with them and assesses their protection needs in accordance with resettlement criteria. Those who are determined by the UNHCR to be in need of resettlement may be referred to the UK for consideration. A number of refugees have already been identified and accepted by the UK; they have not yet been able to travel, which is partly in line with our capacity to welcome, house and support those refugees when they arrive.

Between 2015 and December 2024, the UK resettled more than 33,000 individuals under refugee resettlement schemes. That includes the UKRS, community sponsorship—we have around 200 community sponsorship individuals and organisations around the UK who support the work to settle people and families when they arrive—and also the mandate resettlement scheme. The figure does not include those resettled or relocated under the Afghan schemes. I encourage the hon. Member for Perth and Kinross-shire to look perhaps more closely at what other routes there are; I would welcome a conversation about that. There have been routes through the displaced talent programme for those who may apply to come and work here, supporting our economy and contributing to our growth and to our society.

Alongside working with UNHCR—particularly where there are large populations of refugees, such as those bordering countries with conflicts, where resettlement may be the only durable solution for them—we also want to look at where we can support safe places, working in areas of conflict, as I know the FCDO will be doing in line with international partners, so that people do not feel that they need to leave the place where they live, where they may have lived for generations, because of conflict, and to find a way for them to live there safely again. We also have the bespoke routes for sanctuary, as the hon. Gentleman has already said, for Ukraine, Afghanistan and Hong Kong, and information on those routes is available on the gov.uk website.

However, there is no provision in our immigration rules, as the hon. Gentleman intimated, for someone to be allowed to travel to the UK to seek asylum or temporary refuge. I think we can all sympathise with and want to see support for people in difficult situations around the world and, as has been discussed, it is extremely difficult to think how we can do that on our own. We cannot do these things on our own; they are international problems and they require international solutions.

We have systems by which people who are in need of international protection can be supported, but there is an important principle that those who need international protection should claim asylum in the first safe country they reach. That is the fastest route to safety, which is why there is no provision in our immigration rules for someone to be allowed to travel to the UK in order to seek asylum or temporary refuge.

I hope that that addresses the reasons why our response to the hon. Gentleman's question about tackling demand—it is an important question—is to look not only at what works, to work internationally and to look upstream, but at how that works together as part of a future immigration system that is fair, controlled and managed. That will be an important part of the considerations in the White Paper and the debates that follow.

Pete Wishart: I realise and understand that it is me standing between everybody else around here and lunch, so I will be brief. I am grateful to the Minister, and there is very little I disagree with her on: we have to tackle the upstream situations and do all we can to ensure that we alleviate some of them. I agree with all that. All I am seeking to do with the new clause is to add to the armoury for taking on the gangs. That is the intention of this Government, but without this new clause, the whole system is not complete; we are just leaving all those asylum seekers at the mercy of these illegal gangs and their vile trade. All I am asking is whether we can devise a strategy that would help the Government in their mission. I will press the new clause to a vote.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 12]

AYES

Forster, Mr Will Wishart, Pete

NOES

Bool, Sarah	Malhotra, Seema
Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
Lam, Katie	Vickers, Matt
McCluskey, Martin	White, Jo

Question accordingly negatived.

New Clause 3

SCOTTISH VISA SCHEME: SCOTLAND ACT

"In Schedule 5 of the Scotland Act 1998, in section B6 of Head B (Home Affairs), at end insert—

'Exception 1

The granting of visas to enable certain workers to work in Scotland only.'".—*(Pete Wishart.)*

This new clause would remove the granting of visas for certain workers in Scotland from reserved matters.

Brought up, and read the First time.

Pete Wishart: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 4—*Scottish visa scheme: immigration rules*—

"(1) Within six months of the passing of this Act, the Secretary of State must by immigration rules provide for the establishment of a Scottish visa scheme.

(2) A scheme established under subsection (1) must be administered under the executive competence of Scottish Ministers.

(3) No scheme may be established under subsection (1) until consent has been given by Scottish Ministers with respect of the criteria, extent and duration of the scheme."

In conjunction with NC3, this new clause would require the Secretary of State to provide for a Scottish visa scheme administered under the executive competence of Scottish Ministers.

Pete Wishart: I thought we were ready for lunch! I am ill prepared. This Committee has a strong work ethic—I am desperately trying to find my notes.

The new clauses are practically the exact opposite of everything about this Bill. I am delighted, if quite surprised, that they have been selected for debate. As you would expect, Dame Siobhain, I am going to use the opportunity to promote this cause. Unlike everything about the Bill, the new clauses have at their heart the recognition of the value of immigration, how it is a benefit and why it is necessary to keep our communities and workforce healthy and sustainable.

Scotland has an emerging demography and population crisis, and that is only going to get worse unless we do something about it. With our falling birth rate, we are reaching the stage where we have too few working-age people available to look after an ever-increasing older population. We are already experiencing issues and difficulties in the health service; the care service in Scotland is heading for a workforce crisis; and hospitality outlets and businesses are closing in rural constituencies like mine because they have not got the staff. The simple fact is that Scotland needs more working-age people to refresh our population. If we fail to secure the people we require, we will be in serious trouble.

Scotland is not alone in this—we are just a little bit further along than some other nations. All over the world, advanced democracies are facing the same range of problems and are now positively addressing their own issues with a range of interventions that they hope might spare them the worst of the consequences. Ironically, the global population is still growing and it is uncertain when population growth will peak, but most predict it will come as early as the 2060s.

When I heard that we had a demography professor as a witness in our evidence session, I was quite excited, given my interest in population and demography, but he seemed to be more interested in eugenics than global trends. I think we almost got him to confirm that almost all predictions show that we will soon be heading to population decline. Given his particular and weird worldview, I do not think he accepted even that.

All reputable sources agree that the world population will soon peak and then fall rapidly. As population growth slows down, we are starting to see the difficulties occur. They will start to be felt in nations that experienced rapid growth in the 20th century, like the United Kingdom and most other European democracies. Already we see countries in Europe, such as Italy and Spain, starting to see the real difficulties of population stagnation. Even China is beginning to experience the wider impacts of population slowdown. Japan stands out as a stark example: it is not just at population stagnation, but population decline, which might see it fall from third in the GDP ranks to eighth, because of the impact on the economy.

Far from being a burden, by the end of the century we might be in a situation where immigrants could be at a premium—a highly sought commodity. I am sure that is a prospect that would make our Reform colleagues' heads explode, as well as those of some Conservatives.

The conventional Westminster consensus view from both Labour and the Conservatives is that immigration is a burden—it is out of control and something that must be tackled and controlled. They might look at the general UK population trends and believe they validate the point. The UK population is currently 68.3 million. It is apparently going to grow by another 5 million to 72.5 million by the mid-2030s, then it is going to fall. But it is going to grow by that scale only because the Tories made such a hash of their mission to cut immigration that they inadvertently quadrupled it.

1.15 pm

The Tories did not even understand the post-Brexit visa system they were building, believing that just halting freedom of movement and focusing on Rwanda would solve all their immigration woes. That Tory blunder will actually assist the UK as it starts to deal with its population and demography stagnation issues, but this bit of good news could not make the Tories more miserable. All it has done is spur them into further action against immigration.

Unfortunately, in Scotland we do not share the good fortunate. Our population is currently around 5.43 million, and has grown modestly over the past few years because of the UK's immigration debacle, but we are set to be one of the first parts of the UK to decline, and that could come as early as 2030. With 22% of our population over 65, compared with 19% in England, and a very low

birth rate of one child for every three women, we are in just about the worst possible position when it comes to addressing our demographic challenges.

That is why we have been so persistent, resolute and committed in calling for a distinct Scottish visa. We need Scottish solutions for our own Scottish predicament, and we need the same range of tools to address these issues as other countries. There is no disagreement in Scotland about that. Every single business organisation now agrees that we must act, and there is even consensus among all the political parties that we have real demography and population challenges and need the tools to address them. Everybody knows the difficulties we are in, and every sector is starting to feel the consequences.

The UK Government are not in the least bit interested. Every time I have raised the issue in Parliament, I have been totally rebuffed. Every time Scottish Government colleagues have tried to engage the UK Government, they have been told where to go. I am fully expecting—my great prediction of what the Minister will say—that I will get told where to go again, because they are not in the least bit interested in our distinct, specific population and demographic challenges. But the Scottish people are. The Scottish people are beginning to see the impact on their health service, care services and businesses in rural areas. They are beginning to know that we need the tools to do it.

If the UK Government are not going to provide us with the assistance, support and help we need, we are going to have to do it ourselves. I am pretty certain that when the independence debate begins to develop once again, this will be a big feature of it, because we need to ensure that we have the tools and resources to challenge all the difficult issues we will face in the future. I know Ministers will tell me that I do not need this change, and there is one UK immigration system. They will say, "Don't you worry, Scotland; we will think of some little thing you might get," but it will be insufficient. We need these tools, so I am never going to stop insisting that we get this change to help our nation with our difficulties.

Chris Murray: I admire the hon. Gentleman's forthrightness in putting forward his argument. I have thought about this issue for a long time. Two cantankerous Scotsmen talking about their hobby-horse while everyone else waits for lunch is an exquisite torture to subject the rest of the Committee to.

I was surprised even to see the new clause on the amendment paper—

Pete Wishart: So was I.

Chris Murray: Because the Bill is about border policy and asylum policy, which have very little to do with visas, migration and the running of the immigration system. I do not think this Committee is the place for it, but I am learning that people sneak amendments in wherever they can in this place.

The new clause refers to the granting of visas

"to enable certain workers to work in Scotland only."

First, let us be clear: that is absolutely a part of our immigration system. An international student who wants to study at the University of Edinburgh, or Queen Margaret University in my constituency, gets a visa to that university. I suppose they could commute from Worthing or Dagenham, but in reality they live locally. Equally, when people get a job, they get it on the basis of a specific role, so it is tied to that location. The immigrants we currently have in Scotland are obviously allowed to move around the country, as we have free movement within the UK, but we already have the component of their job location, so the new clause is completely irrelevant.

Secondly, we have had some international examples of a federated country or state introducing a specific visa system, such as Canada and Australia, and 20-odd years ago we had the Fresh Talent scheme in Scotland. The evidence is that specific systems are not very effective at either achieving the aims they set out or tackling any of the deep-rooted challenges that the hon. Member for Perth and Kinross-shire alluded to. All the evidence shows that such schemes are not the right tool to address those challenges.

To come to some of the points the hon. Gentleman made, we have to be honest about the challenges we face in Scotland. Even in this era of record-high net migration to the UK, the figure for which is 900,000—way higher than the goal the Conservatives set—parts of Scotland still struggle to attract migrants. When we had access to European free movement, or 300 million potential people to come and fill vacancies in our labour market, we did not attract them. We have been talking about demand and supply and migration, but the problem is not the supply of immigrants coming to Scotland. It is that we are not generating the demand for them to come to our part of the UK. That is what we need to work on.

The reason for that is the Scottish labour market: it is not dynamic or attractive enough to solve the challenges we have. I would argue that after 20 years of the SNP Scottish Government running our economy and leaking our taxes, that is the cause of our challenges.

Pete Wishart: I cannot let the hon. Gentleman get away with this, because it is utter and total bunkum. I ever so gently encourage him to look at the migration figures within the United Kingdom and at how many people are leaving Scotland and how many are coming from the rest of the UK to settle in Scotland. It is at a record high, and it is growing. We have never seen figures quite like this before. They are attracted to Scotland because we have a better health service, we have a better taxation system and there are more opportunities.

The Chair: I have given the hon. Gentleman a great deal of latitude in the Committee, and I suggest that what he is doing is not an intervention.

Chris Murray: I do not think it is the state of the Scottish health service that is attracting people to Scotland. Other Members are seeing what it is like dealing with the Scottish nationalist party. To a man with a hammer, every problem is a nail. To the SNP, the solution to every question is Scottish independence, or some specific Scottish legislation. Where there are specificities in Scotland, such as our health service and some of our labour market, there absolutely should be action from the Scottish Government to deal with it. However, this problem is not that. The issue is not that Scotland needs

[Chris Murray]

to become independent to attract people. We need to reform our labour market so that we can deal with the demographic issues.

The hon. Member for Perth and Kinross-shire makes the point that people are coming to Scotland now, but once again the SNP is making the mistake of seeing all of Scotland as some monolithic whole, rather than trying to think about what is happening in Scotland. My constituency of Edinburgh East and Musselburgh is seeing record population growth, at 15%, and it is 20% in the East Lothian part of the constituency. We are struggling to put in houses because we are so attractive and wonderful.

But other parts of Scotland are not finding that. The hon. Member for Inverclyde and Renfrewshire West is present, and there are serious challenges in Inverclyde as population is declining. We are seeing a move in Scotland from the west coast to the east coast, as Scottish people move about, and we are also seeing international migrants focusing on certain parts. Some areas have vacancies, especially the highlands and the north of Scotland, because moving there is not attractive to people within Scotland. A Scottish visa could end up with everyone moving to Edinburgh, which would not at all solve the problems that other Members in the room face.

I made the point at the beginning that if we want to use migration to solve our demographic challenges, we are falling into the same mistake as the far right: we are forgetting that migrants are people. They are not just cogs that we put in a machine to be placed in and taken out at will. They are people who grow old, get sick, fall in love, move around and do stuff. We do not suddenly put people in and find that we have solved our demographic challenge. There are whole sets of things that we have to do. Most of all, the main point is that this is a debate that the hon. Member for Perth and Kinross-shire and I need to have at length over the course of this Parliament, not as part of the Bill.

Matt Vickers: SNP new clauses 3 and 4 seek to set up a separate visa scheme and immigration rules for Scotland. Can the hon. Member for Perth and Kinross-shire explain a little more about how this would work in practice? Who does he expect or anticipate those "certain workers" to be? How does he expect that to work in isolation from the wider UK economy? What would prevent someone from applying for a visa to Scotland and moving to other parts of the UK? Is the SNP advocating that there should be checks on people moving between Scotland and the rest of the UK? Why is the SNP not spending more time getting those who are economically inactive into work, rather than reaching for the immigration lever?

Sarah Bool: I think that the hon. Member for Perth and Kinross-shire implied Professor David Coleman was talking about eugenics in the session. I want to put on record that he was not talking about eugenics and that he is an emeritus professor of demography; I know that was a line of questioning raised by the Minister. I want to put on record that that was not what he was there for. He was there to talk about his work with Migration Watch.

Dame Angela Eagle: He is a eugenicist.

Sarah Bool: The Minister says that the professor is a eugenicist, but he actually explained a different relationship. It is important that that is put on record, because it is taking away from his role as emeritus professor for demography.

Katie Lam: I am a little surprised to see the suggestion from the hon. Member for Perth and Kinross-shire because my sense, from the rest of what he said in the debates we have had over preceding sessions, is that he would like to see less of a distinction between British people and those who come to this country as migrants. Indeed, his new clause 5, which we will debate after this, will explicitly set this out, particularly on the question of British citizenship. A scheme like the one he proposes in new clauses 3 and 4 would have the opposite effect, since any citizen of the United Kingdom can freely move between England, Scotland, Northern Ireland and Wales, living and working wherever they choose, and can change the location of their home or employment without permission or notice from any authority. We can pass from one area to another without being stopped or questioned, without having to evidence who we are, where we are from and going, and if and when we might return.

A specifically Scottish visa programme would presumably only work if none of those things were the case. Whatever the details, it would surely involve people coming to Britain but promising only to live and/or work in Scotland, over and above the situations where such things are already implied by the specific conditions of their visa—like the university at which they are studying or the company employing them, as the hon. Member for Edinburgh East and Musselburgh already laid out.

How would this be evidenced, tracked or enforced? Would individuals moving from a few metres into Scotland to a few metres into England be deported? Why would this be a specialist visa programme? If our friends north of the English-Scottish border are especially keen to attract people of working age, be they migrants or not, why would this be the right solution? What steps are already being taken to attract such people, or to make it easier for them to move to or work in Scotland?

Finally, I am interested in the view of the hon. Member for Perth and Kinross-shire on why Scotland currently has within its borders so few asylum seekers within the system. Given what he has previously said, it would be interesting to understand why he thinks that the number of asylum seekers—either in hotels or in dispersed accommodation in Scotland—is less than half of what it should be, proportionate to population of the rest of the United Kingdom.

Seema Malhotra: It is a pleasure to serve under your chairship for this important debate, Dame Siobhain. It is probably the fourth time we have discussed this matter. I want to acknowledge the persistence of the hon. Member for Perth and Kinross-shire. He will be aware—perhaps this is one point I can acknowledge that he would have predicted my response—that we will not be introducing a Scottish visa scheme or devolving control of immigration policy. This has also been a discussion that we have had, and a point that we have made to the Scottish Government. In my remarks, I will perhaps make a few points that will be useful for his

ongoing deliberations on this issue, and suggest how he may direct them towards working with the Scottish Government on some matters that it may be useful for him to be aware of.

The key point is that we must work together to address the underlying causes of skills shortages and overseas recruitment in different parts of the UK, and that is what we are seeking to do. The hon. Gentleman also knows that we believe net migration must come down—under the last Government, it more than trebled and reached a record high of over 900,000 in the year to June 2023. Immigration is a reserved matter, on which we work in the interest of the whole of the UK. The previous schemes that we have talked about have succeeded only in restricting movement and rights, and creating internal UK borders. Adding different rules for different locations will also increase complexity and create friction when workers move locations.

1.30 pm

The hon. Member may see want to see migration as a solution to some of the depopulation challenges in rural areas faced not just in Scotland but in other parts of the UK. We recognise those challenges and have debated them—it was an important debate—but visa holders may not want to stay in particular areas for much the same reasons that UK nationals do not want to stay in them, and we cannot compel them to do so indefinitely. The reasons for workers or residents leaving must also be addressed, with investment in jobs, infrastructure and public services. Many of the levers to address depopulation are powers that the Scottish Government already have at their disposal. I think it would be of value if the hon. Gentleman were to bring to the House examples of where he has been working with the Scottish Government, how they have been using their powers, the investment that is taking place, and their strategy to address depopulation in Scotland. That would enrich the debate, taking it beyond discussions and into a solution space.

I will make some final remarks, including about the situation in some of the fishing communities. I have visited Scotland recently, and I will comment on workplace shortages in line with what the Home Secretary outlined in the inter-ministerial group that she chaired in January. She set out the UK Government's approach to linking migration with labour markets, including the quad, which we have discussed: bringing together skills; the Migration Advisory Committee—on which Scotland is represented by a member from Scotland with expertise in the Scottish economy; labour market access; and our approach to employment. The Home Secretary acknowledged that a lot of that work is devolved in Scotland, Wales and Northern Ireland. It is therefore important for the UK Government to work with the devolved Governments to identify how to work together on these agendas. Indeed, the Scottish Government's Minister for Equalities noted the common themes with other devolved Governments, and welcomed the joined-up and evidence-based approach. She also highlighted—as the hon. Gentleman has—the Scottish Government's request for a Scottish graduate visa.

It is important to acknowledge that although the Home Secretary confirmed, as I have, that we will not develop devolved visas or visa administration—I will make some remarks to explain why we will not support the hon. Gentleman's new clauses—she recognised that labour market challenges are different across different nations and regions, and asked officials to work across the four Governments to develop structures for UK-wide analysis and bring that work back to the next inter-ministerial group. That will also involve discussion of the immigration White Paper, in which we want to make sure we have inputs from across the whole of the UK.

Finally, I turn to the new clauses—not least in the light of the comments I have made, which addressed the issues in a different and more strategic way than he is calling for. The technicalities of the new clauses would complicate the visa system: they would potentially work against wider immigration policy; the scope is unclear; and there is no definition of the "certain workers" mentioned in new clause 3. New clause 4 would put the Home Secretary in the unacceptable position of having to act unlawfully in the event that a scheme was not ready to go within the proposed six months. These are not straightforward measures, but it is important that we tackle the issues that the hon. Member has raised. I look forward to continuing debates with him on how we do that.

Pete Wishart: I will be brief, but a lot of the questions that were asked were relevant and deserve a response. First, it is not me that the hon. Member for Edinburgh East and Musselburgh needs to debate and speak to about this; it is Scottish businesses, business organisations and the political consensus in Scotland. The hon. Member should sit down with Jackie Baillie, who raised visas as a live issue during the general election campaign. I do not know what happened to that ambition from Scottish Labour. It seems to me that it was totally slapped down by the bosses down here in the Home Office, who wanted absolutely nothing to do with it. We do not hear about it as much anymore, but it was a real ambition from Jackie Baillie and the Labour party to secure this provision for Scotland. We only need to look back at the last Labour Government to see what imagination can do and what effective Government can deliver. We had the Fresh Talent scheme—a fantastic scheme that gave us a competitive advantage when it came to university students.

Seema Malhotra: The hon. Gentleman mentions the Fresh Talent scheme, which allowed graduates of Scottish universities to remain and work for two years after graduation without needing a sponsoring employer. In practice, many Fresh Talent participants did not remain in Scotland and took up employment elsewhere in the UK. That is precisely the challenge we are talking about.

The Chair: I remind the Minister that we have a hard return at 2 o'clock, so the longer we go on, the less likely it is that anybody is going to get an opportunity for lunch.

Pete Wishart: I will try to be as brief as possible, because I understand that we have got a time constraint.

Fresh Talent possibly did do that, but it would be different this time round because we have a distinct tax code in Scotland. We have Revenue Scotland as a result of further devolved powers from a few years ago. To address the questions from Conservative Members as to how a scheme would work, because of that tax code anybody who came in through a distinct Scottish visa

[Pete Wishart]

scheme would be bound by that, and the obligations and qualifications would be to work in a list of occupations that is designed in Scotland.

Members are talking about this as if it has never been done anywhere else in the world. When I chaired the Scottish Affairs Committee, I took it to Quebec, and we sat down and examined exactly what happened there. We saw a fantastic scheme that has given Quebec, and particularly the Montreal metropolitan area, huge advantages over the rest of Canada. It works there and it works in Australia. Through imagination and making sure they are done in the right way, these schemes work and bring real benefits. International examples show that distinct tax codes that would allow people to stay within a distinct area in Scotland could be easily delivered.

We are going to continue to debate this issue as this Bill goes forward. The whole Scottish business community and the care sector are saying to us, "This is a priority." It is not going to go away, but again it is rebuffed. Is a place on the Migration Advisory Committee really the best that the Government can with this range of difficult circumstances? I will be back to the issue and we will make sure that we take things forward. I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

Ordered, That further consideration be now adjourned. *—(Martin McCluskey.)*

1.39 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Tenth Sitting

Thursday 13 March 2025

(Afternoon)

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

not later than

Monday 17 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, † Dame Siobhain McDonagh, Dr Andrew Murrison, Graham Stuart

† Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 13 March 2025

(Afternoon)

[Dame Siobhain McDonagh *in the Chair*]

Border Security, Asylum and Immigration Bill

2 pm

The Chair: I congratulate everybody on arriving so promptly; I hope there is not too much indigestion about.

New Clause 5

British citizenship

"(1) The Secretary of State must, within three months of the passing of this Act—

(a) ensure that illegal entry to the UK is disregarded as a factor for the purposes of assessing whether a person applying for British citizenship meets the good character requirement; and

(b) ensure that all asylum seekers with—

(i) indefinite leave to remain in the United Kingdom;

(ii) settled status; or

(iii) indefinite leave to enter the United Kingdom;

have a right to naturalisation after five years of residency in the United Kingdom, regardless of their country of origin or method of arrival."—*(Pete Wishart.)*

This new clause would require the Secretary of State to change current Home Office guidance stating that people who enter the UK illegally, regardless of how long ago, will "normally be refused" citizenship (if they applied after 10 February 2025).

Brought up, and read the First time.

Pete Wishart (Perth and Kinross-shire) (SNP): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss

New clause 13—*Good character requirement: illegal entry—*

"The Secretary of State must, within three months of the passing of this Act, ensure that illegal entry to the UK is disregarded as a factor for the purposes of assessing whether a person applying for British citizenship meets the good character requirement."

This new clause would require the Secretary of State to change current Home Office guidance stating that individuals who enter the UK illegally, regardless of how long ago, will "normally be refused" citizenship (if they applied after 10 February 2025).

Pete Wishart: I trust everybody enjoyed the five-course banquet we had in the 20 minutes available to us. I apologise if I seemed to be unnecessarily detaining the Committee and depriving them of a good and solid lunch; we will make sure that that does not happen again, Dame Siobhain.

It was with a gasp of astonishment that we learned of this Government's intention to change the nationality good character requirement guidance—it came totally out of the blue. I think we are all still reeling a little bit, thinking about what this involves and what is at stake. It establishes a new standard that individuals who previously entered the UK illegally or without valid entry clearance, particularly in what is described as a "dangerous journey", will now be refused citizenship. That is a huge departure from previous practice, where illegal entry was typically considered a barrier to citizenship only if it had occurred in the past 10 years. Regardless of how long a person has lived in the UK, their mode of entry could now be used to deny them the right to naturalise.

This policy has been implemented without prior consultation or parliamentary scrutiny—it is going to get a little bit this afternoon, but that is only because we have brought the issue to this Committee—and that raises serious concerns about its fairness and legality. The majority of refugees arrive in the UK through irregular routes; safe and legal pathways remain extremely limited, as we learned in the previous debate. By effectively banning these individuals from citizenship, this policy risks permanently disenfranchising those who have sought protection in the UK and who have built their lives here.

We already heard from the United Nations High Commissioner for Refugees, which wrote to the Committee to say that the decision to deny citizenship based on mode of entry contradicts the UK's commitment under international law, particularly article 31 of the 1951 refugee convention. This article's non-penalisation clause states:

"The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

The denial of citizenship based on how someone arrived in the UK is a clear penalty, which goes contrary to the convention. The UNHCR notes that it previously highlighted in its legal observation on the Illegal Migration Bill 2023 that restricting access to citizenship under section 31 to 35 of that Act would constitute a

"penalty under Article 31 of the Refugee Convention and be in breach of that provision. It further stated that the provisions ran counter to Article 34 of the Refugee Convention and Article 32 of the 1954 Convention on Statelessness which requires States to 'as far as possible facilitate the assimilation and naturalization of' refugees and stateless people".

Despite the proposed repeal of these provisions, updates to the nationality good character requirement guidance issued in February 2025 appear to reintroduce similar barriers, further restricting pathways to citizenship for those affected. In addition, the policy change is likely to deter many from applying for citizenship altogether, given the high costs involved and the lack of an appeal process in case of refusal. Even if the guidance states that an exception may be made, which I am pretty certain is what the Minister will tell me, those who would be likely to obtain citizenship due to their personal circumstances will be deterred from applying.

Currently, a naturalisation application costs £1,605, with an expected increase of £1,685. That financial burden, combined with the uncertainty surrounding the application process, creates significant barriers for refugees and stateless persons who would otherwise seek to integrate fully into British society.

The application of the policy will go beyond individual applicants. Citizenship is a key factor in social integration, providing security, stability and full participation in civic life, including the right to vote in general elections.

Without access to naturalisation, many individuals who have lived and worked in, and contributed to, the UK for years—if not decades—will remain in a precarious status. Although the Home Office guidance allows for some discretion in decision making, it provides no real criteria on how that discretion will be applied. The lack of transparency makes the process unpredictable and risks creating a system where citizenship decisions are inconsistent or arbitrary.

The changes also highlight the broader issue of immigration law being shaped through administrative guidance rather than through democratic scrutiny, which is our role as parliamentarians in this House. By changing the interpretation of the statutory good character requirement without parliamentary oversight, the Home Office has effectively reinstated elements of the Illegal Migration Act 2023 that were meant to be scrapped through this Bill. The lack of accountability is deeply concerning.

Granting citizenship is a key step in ending an individual's status as a refugee or stateless person. It also benefits the host country by fostering economic, social and cultural integration while promoting social cohesion. Restricting access to citizenship undermines those objectives, and that is why I tabled this new clause.

Matt Vickers (Stockton West) (Con): The new clause would require the Secretary of State to change current Home Office guidance stating that people who entered the UK illegally, regardless of how long ago, will normally be refused citizenship. The new clause states that illegal entry—in other words, breaking into this country—should be disregarded as a factor for the purposes of assessing whether a person applying for British citizenship meets the good character requirement. Effectively, both the Liberal Democrats and the SNP want to ensure that entering this country illegally is not a bar to gaining citizenship.

British citizenship is a huge honour and privilege, and the benefits that come with it have attached costs. Can hon. Members see what a pull factor this measure would create for making dangerous channel crossings in small boats? There is nothing compassionate about allowing small boat crossings to continue, and this new clause would do nothing but encourage more. The Labour Government are already repealing provisions in our Illegal Migration Act that prevented illegal migrants from getting citizenship. It seems that the SNP, the Liberal Democrats and the Labour Government are all in agreement that illegal migrants should get British citizenship. Do the SNP and the Liberal Democrats agree with the Prime Minister that British citizenship is not a pull factor for illegal immigrants?

If people believe that crossing in a small boat will ensure that they can not only stay, but stay for evermore with all the attached benefits of British citizenship, they will continue to come in ever-increasing numbers. Even the Government's own Border Security Commander has said that we cannot smash the gangs without a deterrent. British citizenship and all its associated benefits would provide an incentive for making that small boat crossing, inducing people to feed the model of the evil people-smuggling gangs. The Conservative party believes that British citizenship is a privilege, not a right, and certainly not a reward for illegally crossing the channel. We do not support the measure.

Sarah Bool (South Northamptonshire) (Con): I want to put on record again the importance of the rule of law. This new clause would essentially allow someone rights when they have entered the country illegally. The rule of law and compliance with the law are fundamental within our system, so I cannot accept the premise that acting illegally should be waived or permitted. We are a country of fairness and there has to be fairness and equality under the law. This provision flies in the face of that. If we make an exception here, no matter how desperate the situation, we set a dangerous precedent.

As my hon. Friend the Member for Stockton West said, it is a privilege to have British citizenship, and so many people abide by the law. The system proposed by the new clause for those trying to enter the country via illegal routes fundamentally undermines that. We have to be incredibly careful in how we proceed with these things; if something is illegal, the clue is really in the name.

Mr Will Forster (Woking) (LD): I am happy to support the new clause tabled by my friend the hon. Member for Perth and Kinross-shire. I will also speak to new clause 13, which does essentially the same thing. This issue is about fairness and reasonableness. Ensuring that effectively no refugee or asylum seeker can get citizenship is not reasonable. Refugees will forever become second-class citizens if we allow that to go ahead. I am concerned that that would deepen divisions within society by disenfranchising our newest constituents and residents. The refugees I have spoken to in my constituency of Woking are so proud when they get citizenship, and it encourages integration. Banning them from citizenship, which is what current guidance amounts to, is wrong. I am happy to support both new clauses.

Katie Lam (Weald of Kent) (Con): To quote my right hon. Friend the Member for North West Essex (Mrs Badenoch), British citizenship is—or at least should be—

"a privilege to be earned not an automatic right."

Citizenship should be available only to those who have made both a commitment and a contribution to the United Kingdom. For example, it should be a fundamental principle of our system that people who come to this country do not cost the public purse more than they contribute to it. It should also be a fundamental principle of our system that those who seek to harm this country, to break its laws and to undermine what we hold to be fair and right should never be able to become British citizens. To state something so obvious that it sounds almost silly, those who have come to this country illegally have broken the law. The Liberal Democrats and the Scottish National party are proposing that we ignore that fact.

As my hon. Friend the Member for South Northamptonshire just said, how can we possibly say that lawbreaking should not be considered when assessing whether someone is of good character? It seems to me outrageous, unfair and completely against what we understand to be the wishes of the public to turn a blind eye to the fact that someone has broken the law when it comes to determining their character and thus whether they should become a fellow citizen of this great country.

Separately, the Conservatives feel that the timeframe the hon. Member for Perth and Kinross-shire suggests in new clause 5 is far too short. In line with our party's wider policy, we feel that five years is not enough time

[Katie Lam]

to qualify a person for indefinite leave to remain. Immigration, as we are all well aware, was at well over 1 million people a year in 2022, 2023 and 2024, and net migration was at, or is expected to be, at least 850,000 people for each of those years. If we accept that the immigration policy of the past few years was a mistake, we should make every effort to reverse the long-term consequences. That is why the Conservative party is advocating that the qualifying period for ILR should be extended to 10 years, rather than the five years in the new clause.

Finally, I return to my earlier point about Scotland, the Scottish National party and the proof of its compassion as compared with its words. The hon. Member for Perth and Kinross-shire shook his head when I was speaking about the number of asylum seekers and where they are located. The latest data released on that is for December 2024. As I read it, in Scotland, there are 1,421 asylum seekers in hotels, compared with 36,658 in the rest of the country, and 4,262 asylum seekers in dispersed accommodation, compared with 61,445 across the rest of Britain.

I appreciate that that is challenging mental maths, so I will tell hon. Members that that means that Scotland houses only 5% of the asylum seekers currently accommodated by the state in this country. Scotland is underweight relative to population and dramatically underweight relative to size. Given everything that the hon. Gentleman has said that he and his party stand for, would we not expect the opposite to be true—that Scotland would be pulling its weight more, rather than less?

The Parliamentary Under-Secretary of State for the Home Department (Seema Malhotra): I am grateful for the opportunity to speak in response to the debate on new clauses 5 and 13. I want to clarify a few points. There are already rules that can prevent those arriving illegally from gaining citizenship. In February, the Home Secretary further strengthened measures to make it clear that anyone who enters the UK illegally, including small boat arrivals, faces having a British citizenship application refused. This change applies to anyone who entered the UK illegally, or those who arrived without a required, valid entry clearance or valid electronic authorisation, having made a dangerous journey, regardless of the time that has passed since they entered the UK.

2.15 pm

Citizenship applications will continue to be considered on a case-by-case basis, which I will say a little bit more on shortly. It is also the case that the previous Government's Illegal Migration Act was never operationalised or enacted. We have always kept citizenship policy under close review, and we continue to do so. The guidance builds on statutory requirements to be eligible for naturalisation as a British citizen, such as requiring the person to have become settled, alongside criminality checks.

New clause 5 seeks to create a right to naturalisation for refugees who are settled and have lived in the UK for five years. It is important to note that no one has the right to naturalise—citizenship is a privilege—and an applicant must meet the statutory requirements, including being of good character. Many people applying for naturalisation cannot meet the statutory requirements until they have lived in the UK for a minimum of six years. New clause 5 would see a faster and more generous approach to citizenship for refugees than for others applying for citizenship. It

That would lead to people who would not meet the good character requirement, because of their criminality or other behaviour, being granted British citizenship. We believe that rules must be respected and enforced for the asylum and immigration system to work. That is part of the reason for making this change to the good character guidance, strengthening measures to ensure that anyone who enters the UK illegally faces having a British citizenship application refused. However, that will continue to be on a case-by-case basis—this is in the guidance—considering factors such as where, for example, someone has been trafficked here through modern slavery. That is important for a robust and fair approach.

We continue to assess citizenship applications on a case-by-case basis, in line with the UK's obligations under domestic and international law. When it comes to a good character assessment, it is important that consideration is given to all aspects of a person's character—both negative factors such as criminality, immigration law breaches and deception, and positive factors such as the contributions that a person is making to our society. I hope that, for the reasons I have outlined, the hon. Member for Perth and Kinross-shire will consider withdrawing his new clause and that we can continue the conversation about citizenship, which I am sure this House will return to.

Pete Wishart: I remember saying on Second Reading that this Government were carrying on in the vein of the Conservatives. Doing something so all-encompassing and denying as this is probably worse than what the Conservatives would ever produce. They did not conceive anything like this. They are capable of having the warped imagination that produced the Rwanda Bill, but they did not even come close to something like this.

As well as being a privilege, surely British citizenship should be available. What the Government are doing with the change to the good character reference is denying all asylum seekers and refugees the slightest opportunity to become a British citizen, except in narrowly defined circumstances, as the Minister pointed out. What about all the things about cohesion, and giving people opportunities? I thought that was the British spirit.

I am a British citizen. It is not a particular definition that I want to hold on to for much longer, but I am a British citizen. To me, it strikes me as just not British to deny a whole swathe of people in this country the right to achieve that status.

Mike Tapp (Dover and Deal) (Lab): Does the hon. Member realise how ironic it is for him to be lecturing us on British citizenship when he does not particularly want his?

Pete Wishart: I am sure the hon. Gentleman and I will have the opportunity to discuss these issues in the future of this Parliament and I very much look forward to that.

I did not hear anything at all from the Minister about anything to do with the quite stern rebuke to this Government from the United Nations High Commissioner for Refugees in its written evidence. It is concerned that this measure drives a coach and horses through the UK Government's commitments to certain sections of the various conventions. Is the Minister even slightly embarrassed about what has been presented to them?

This is a nasty, pernicious move by this Government, and it is not particularly in the spirit of what they are trying to achieve with the Bill. It is a continuation of the ethos of the previous Conservative Government. It even introduces through the back door certain aspects of the Illegal Migration Act that we are very keen to move on from. I hope that the Government reconsider this measure, and I will certainly be testing the Committee with a vote on the new clause.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 13]

AYES

Forster, Mr Will	Wishart, Pete

NOES

Bool, Sarah	Malhotra, Seema
Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
Lam, Katie	Vickers, Matt
McCluskey, Martin	White, Jo

Question accordingly negatived.

New Clause 6

ADDITIONAL SAFE AND LEGAL ROUTES

"The Secretary of State must, within six months of the passage of this Act, make regulations specifying safe and legal routes through which refugees and other individuals requiring international protection can enter the UK lawfully."—*(Mr Forster.)*

This new clause would require the Secretary of State to make regulations specifying additional safe and legal routes, under which refugees and others in need of international protection can come to the UK lawfully from abroad.

Brought up, and read the First time.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 14]

AYES

Forster, Mr Will	Wishart, Pete

NOES

Bool, Sarah	Malhotra, Seema
Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
Lam, Katie	Vickers, Matt
McCluskey, Martin	White, Jo

Question accordingly negatived.

New Clause 7

DUTY TO MEET THE DIRECTOR OF EUROPOL

"The Border Commander must meet the director of Europol, or their delegate, no less than once every three months."—*(Mr Forster.)*

This new clause would require the Border Commander to meet with the Executive Director of Europol every three months.

Brought up, and read the First time.

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

Question negatived.

New Clause 8

DUTY TO ESTABLISH A JOINT TASKFORCE WITH EUROPOL

"(1) The Secretary of State must seek to establish a joint taskforce with Europol for the purposes of cooperation on the matters set out under subsection (3).

(2) The Secretary of State must, within six months of the passage of this Act, make a report to Parliament on progress made to date on establishing a joint taskforce under subsection (1).

(3) Any joint taskforce established pursuant to the Secretary of State's activities under subsection (1) has a duty to promote cooperation on—

(a) the disruption of trafficking operations;

(b) the enhancement of law enforcement capabilities;

(c) the provision of specialised training for officials involved in border security and immigration enforcement; and

(d) any other matters which the Secretary of State or Director of Europol deem appropriate."—*(Mr Forster.)*

This new clause would require the Secretary of State to seek a joint taskforce with Europol for the purposes of disrupting trafficking operations, enhancing law enforcement capabilities, and providing specialised training to officials involved in border security and immigration enforcement.

Brought up, and read the First time.

Mr Forster: I beg to move, That the clause be read a Second time.

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

New clause 9—*Participation in Europol's anti-trafficking operations*—

"(1) The Secretary of State must provide adequate resources to law enforcement agencies for the purpose of enhancing their participation in Europol's anti-trafficking operations.

(2) The resources provided under subsection (1) must include technology for conducting improved surveillance on, and detection of, smuggling networks.

(3) For the purposes of subsection (1), 'law enforcement agencies' include—

(a) the National Crime Agency

(b) police forces in England and Wales; and

(c) the British Transport Police."

This new clause would require the Government to allocate adequate resources to law enforcement agencies to enhance their participation in Europol's anti-trafficking operations, including through technological tools for better surveillance and detection of smuggling networks.

New clause 10—*Requirement to produce an annual report on cooperation with Europol*—

"(1) The Secretary of State must, within one year of the passage of this Act, lay before Parliament an annual report on cooperation between UK law enforcement agencies and Europol.

(2) A further report must be published and laid before Parliament at least once per year.

(3) An annual report under this section must include—

(a) actions taken during the previous year to cooperate with Europol;

(b) progress in reducing people smuggling and human trafficking; and

(c) planned activities for improving future cooperation with Europol."

This new clause would require the Government to provide an annual report to Parliament detailing the UK's efforts to cooperate with Europol, its progress in reducing levels of people smuggling and human trafficking, and its plans to improve future cooperation.

Mr Forster: I will be relatively brief. The three new clauses concern Europol, and the Liberal Democrats and I think that they are vital to ensuring that the Bill goes further and is more effective. Cross-border co-operation is key to reducing small boat crossings—something that the former Government made it harder for our country to do. However, the Bill misses the opportunity to better tackle them. We believe that this Government should strive for greater cross-border co-operation, including by working with Europol. Including that as part of the Bill seems a sensible step.

Matt Vickers: Liberal Democrat new clauses 8, 9 and 10 attempt to establish a joint taskforce with Europol and provide annual reports to Parliament to reduce levels of people smuggling and human trafficking.

Most Governments accept that international partnerships and cross-border co-operation have a role to play in solving the problem, but the new clauses could restrict the Government's ability to negotiate in this regard while creating a cost by way of the need to provide further adequate resources to enhance that partnership and participation. They would also impose a responsibility to create yet another report. The National Crime Agency has said that no country has ever stopped people trafficking upstream in foreign countries. The Australians have done it, but that was with a deportation scheme. Why do hon. Members not think that a strong deterrent—that people who arrive in this country illegally will not be able to stay—would not be more effective in stopping people smuggling?

I realise that the Lib Dems seem to think that Europe has the answer to all the world's problems, but surely even they must appreciate the need for a deterrent, rather than an incentive. In fact, as Europe reconsiders its approach to immigration by looking at what it can do to deter illegal entries, it is even more important that we do the same, rather than becoming the soft touch of Europe.

Katie Lam: In the light of the comments that Government Members have made on other provisions in the Bill, these new clauses seem to us completely unnecessary. Exactly as my hon. Friend just said, they do not seem to us appropriate for primary legislation and seem more likely to constrain rather than empower the Home Secretary and Ministers in their difficult job of securing the border.

Becky Gittins (Clwyd East) (Lab): It is a pleasure to serve under your chairship, Dame Siobhain. I will keep my comments brief.

I read the new clauses from the hon. Member for Woking with interest. I understand the important point that has been raised—I think by hon. Members on both sides—about the importance of working internationally on this issue. I suppose my question to him would be: does he not think that an international outlook in tackling the issues that we have here, which is the sole purpose of the Bill, has already been exercised? In December last year, we agreed the Calais Group priority plan with our near neighbours and the joint action plan on migration with Germany. In November last year, we had the landmark security agreement with Iraq, and we also have a well-established relationship with our counterparts in France to work closely to prevent the dangerous crossings and reduce the risk to life at sea.

We have talked a lot about cause and effect, and I can really see the intention behind the new clauses. However, I question their necessity, as well as some of the suggestions made about the intention of the Government, who have really shown a pragmatic outlook about how we deter those crossings.

2.30 pm

Tom Hayes (Bournemouth East) (Lab): I wonder whether the SNP and the Liberal Democrats are experiencing post-traumatic stress disorder, and I mean that in two senses. First, they query whether this Government are committed to international human rights, when they have shown time and again that they are, although I understand that concern, given what has gone before. With this situation—where they are trying to prescribe, in primary legislation, the foreign affairs of this Government and the regularity with which they meet international organisations—I wonder too whether they are experiencing some post-traumatic stress disorder, because they know that the previous Conservative Government resorted to sticking two fingers up at our international partners and international agencies. I hope they will withdraw the new clause because they should feel reassured that this Government have a respect for human rights, international law and working with our international partners and agencies.

The Minister for Border Security and Asylum (Dame Angela Eagle): I hope you, too, enjoyed a long and languid lunch, Dame Siobhain, after the way in which we overshot this morning's sitting. This group of new clauses introduces requirements, in primary legislation, for the Secretary of State to put in place arrangements for closer co-operation with Europol, which includes seeking the establishment of a joint task force, providing adequate resources for participation in Europol's anti-trafficking operations and the publication of an annual report.

Very few of us would quibble with what I suspect is the intended output of such clauses, but I would quibble with the means by which the hon. Member for Woking has decided to try to bring it about. He is putting things into a piece of primary legislation, which cannot be easily changed, moved or shifted about, and that creates more issues and less flexibility than what I am sure he is seeking to achieve.

I suspect that, with these clauses, the hon. Gentleman is using the Bill as a hook on which to hang requirements on the Secretary of State, so as to have a debate about

how the Government will co-operate with international law enforcement agencies. I do not think he is really saying that we should be doing that in the quite rigid way that his new clauses suggest. I reassure him that we are doing what I think he wants us to do according to the new clauses, but in a much more flexible way that can be changed very quickly because it is not stuck in a piece of primary legislation. I think we also discussed it on day one in Committee.

The UK has a strong relationship with Europol, including significant permanent presence in the agency's headquarters in The Hague. UK law enforcement agencies already collaborate with international partners through Europol-supported operations. The allocation of resources to that participation is an operational decision for law enforcement agencies, and certainly not one that should be included in primary legislation. There is regular interaction on both operational and strategic matters between Europol, this Government and the Home Office, including at the most senior levels.

As well as working with Europol, the Home Office will continue to work with a range of international bodies—including Frontex and operational work with many of the law enforcement agencies in European countries and beyond, for example—to deliver the Government's border security objectives. That is because we recognise that border security is not just about one's own border: quite often weaknesses in others' borders along the traveller and migratory routes cause weaknesses for us. Indeed, sometimes visa regimes in other countries can cause problems in the UK. For example, the sudden appearance on small boats last year of large numbers of Vietnamese, who clearly had not walked from Vietnam, was caused by changes that had happened to visa requirements in other countries. Those things are interrelated. Fighting organised immigration crime is an interrelated operational, diplomatic and political matter, on which this Government are doing a great deal of work to try to strengthen it and make it more effective.

The UK regularly participates in operational taskforces with EU partners, and it is inappropriate to place on the face of a piece of legislation a statutory requirement to seek to establish a joint taskforce. That would force us to have a joint taskforce, whether or not we wanted one and whether or not it would do any good, thereby, in that case, diverting precious resources where they are not operationally needed.

I hope the hon. Member for Woking understands the points that I am making. The Border Security Commander will provide an annual report to Parliament, setting out their views on the performance of the border security system as it develops. Europol is an individual agency, among many with which UK law enforcement collaborates to achieve the Border Security Commander's objective. I hope that the hon. Gentleman will accept my comments on his three new clauses in the spirit in which they are intended: we know what he means, but we think that we have a better way of bringing it about in a far more flexible way than through his new clauses. If he accepts that argument, I certainly hope he will withdraw the amendment.

Mr Forster: I do not quite get the reasoning that says that we do not need the amendment in order to work with Europol because we already work with Europol. The amendment is about empowering Parliament and making the Executive act, which is what we are keen to do. I beg to ask leave to withdraw the clause.

Clause, by leave, withdrawn.

New Clause 11

REMOVAL OF RESTRICTIONS ON ASYLUM SEEKERS ENGAGING IN EMPLOYMENT

"(1) The Secretary of State must, within six months of the date on which this Act is passed, lay before Parliament a statement of changes in the rules (the 'immigration rules') under section 3(2) of the Immigration Act 1971 (general provisions for regulation and control) to make provision for asylum applicants to take up employment whilst their application is being determined, if it has been over three months since the application was made, with no decision made.

(2) Employment undertaken pursuant to subsection (1) is subject to the following restrictions—

(a) employment may only be taken up in a post which is, at the time an offer of employment is accepted, included in Appendix Immigration Salary List;

(b) there must be no work in a self-employed capacity; and

(c) there must be no engagement in setting up a business."—*(Mr Forster.)*

This new clause would remove the restriction on working for asylum seekers, if it has been over three months since they applied.

Brought up, and read the First time.

Mr Forster: I beg to move, That the clause be read a Second time.

The new clause is about allowing asylum seekers to work. It is commonly raised, by a lot of people, that this country discourages asylum seekers from working. It seems that it is viewed as being tough on them, but what it does is encourage an unacceptable welfare bill. We have a lot of research on it from the Lift the Ban coalition. Several years ago, it said that, actually, the fiscal gains from such a change would be significant. Originally it said that the gains would be £97.8 million a year, but that figure was later revised up to £108.8 million. I think the new clause would encourage work, lower the benefits bill for the taxpayer and ensure better integration.

Chris Murray (Edinburgh East and Musselburgh) (Lab): Does the hon. Gentleman agree that what is causing that huge bill is not the fact that people cannot work, but that they are waiting for a decision? They are stuck in backlog, but if they got a decision that would obviate this discussion completely.

Mr Forster: I do agree with that. The system was broken by the previous Government; that is one of the very few things that the hon. Member and I completely agree on. We know that the system is broken, but we leave people stuck in limbo. Until the system has been fixed, let us enable them to work and use their skills to benefit our constituencies. If there were a quick decision in a matter of weeks, there would be no need for the new clause. But we know that is not going to happen. That has consistently failed to be implemented. In the meantime, we should let and encourage asylum seekers to work, for their benefit, the benefit of their families and the benefit of our constituents.

Matt Vickers: Liberal Democrat new clause 11 attempts to remove the restrictions on asylum seekers engaging in employment. It is yet another inducement for making that perilous journey, and another selling point for the people smuggling gangs as they make their pitch with the aim of profiting from the peril of others. New clause 11, coupled with new clause 10, seems to mark out a marketing plan for those evil and immoral people smuggling gangs.

Successive Governments have maintained that easing work restrictions could draw asylum seekers to the UK because they would believe that the reception conditions were more favourable. It creates a huge potential for an increase in applications from economic migrants whose primary motivation for coming to the UK is to benefit from work opportunities rather than to seek safety.

Do the Liberal Democrats not agree that lifting the ban will act as pull factor for migrants all over the world to come to the UK? Do the Liberal Democrats understand the impact that such a policy would have on other Departments, such as the Department for Work and Pensions and His Majesty's Revenue and Customs? If the Liberal Democrats are worried about skills shortages, what plans do they have to get the 9 million economically inactive people already in the UK into those roles? What thoughts have the Liberal Democrats put into the measure, the legal issues it may introduce with employee rights, and the further challenges it will give the Home Office in swiftly removing those here illegally to their country of origin?

Katie Lam: In evidence for the Bill, Professor Brian Bell, who chairs the Migration Advisory Committee, spoke about what he sees as the incentives for people to come over here from France, which is of course a safe country. He spoke of the strong economic incentives to come to the UK and the challenge that poses for any Government because it would not necessarily benefit us to remove those incentives. He said:

"the unemployment rate is 7.8% in France and 4.4% in the UK. The gap is slightly larger for young people than for the population as a whole. I am sure the Government would not want to change that incentive, although the French probably would. If you have a buoyant economy relative to your neighbour, at least in the labour market, that is an incentive." —[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 58, Q89.]

He went on to say that there are some things that we could do that might help, such as better enforcement of our labour laws, making it more difficult for people to work illegally.

What the hon. Member for Woking and the Liberal Democrat party are proposing is exactly the opposite of what Professor Bell was saying that we should do. Allowing asylum seekers to work before their claims are approved would make it easier for people to come here illegally and make money, and so it would increase the economic incentive for people to come, which we have heard is a pull—perhaps the primary pull—for people making those life-threatening journeys across the channel in the hands of organised criminal gangs. We consider it to be deeply wrong and counter to the aim of everything we are trying to achieve in securing the border against illegal migration. It is unfair and immoral.

Mike Tapp: This is another rare moment of general agreement with the hon. Members for Stockton West and for Weald of Kent. We will savour this moment. I will make some quick points on the new clause. It does create an additional pull factor for those seeking to travel. We do not know who is a genuine asylum seeker until their claims have been processed. The new clause would put a lot of people who are not genuine asylum seekers into our workforce to then be pulled away when the deportation takes place. Having asylum seekers in work may also create funding for others looking to travel over on small boats, as they may send money back to others in order to come over.

The answer to this question is in what we are doing already. The Home Secretary and immigration Ministers are working hard day to day at getting the Home Office back doing their day jobs again and speeding up the processing so that those who should be in work can be and those who should not be here are deported.

2.45 pm

Sarah Bool: I have a few points about some of the legal issues around what it would mean if we allowed asylum seekers to work at this point. The Opposition already have concerns about the Employment Rights Bill and the day-one rights that will be accrued, so I wonder in this context how this would actually work. On another level, I wonder about how we would deal with tax that they pay and their national insurance numbers before they have had their asylum claims examined.

I see that subsection (2)(a) of the new clause talks about asylum seekers being able to take up a post that is included in the appendix immigration salary list. I wondered whether the hon. Member for Woking had more detail about what that means or entails—forgive me, I am not an expert in that area. I also note that they cannot do any self-employed work or set up a business. Although I can see the principle of what hon. Members were trying to achieve with the new clause, in reality I am not sure that, given how it is drafted, it would get them anywhere near that. I have quite a few concerns about it.

Pete Wishart: I wholeheartedly back the hon. Member for Woking's new clause; I thought about tabling it myself, but he beat me to it. It is sensible and should be supported by the Committee—mainly because it is an utter waste that people with huge skills are languishing in hotels doing practically nothing all day. We host a number of asylum seekers and refugees in hotels in Perth, and I go and visit them. Can I just say to the hon. Member for Weald of Kent that Scotland more than has its share of the general number of asylum seekers across the United Kingdom? I do not know where she has got her figure from.

Katie Lam: Will the hon. Member give way?

Pete Wishart: No, I will correct her and then she can come back on that. Scotland hosted 5,086 refugees receiving support from local authorities. That represents 8.3% of total asylum seekers. The population of Scotland accounts for something like 8.8% of the total population of the United Kingdom, so we are hosting almost the same number as our population share—that is quite remarkable given the distance Scotland is from where most of the asylum seekers come in. We have a proud record of supporting asylum seekers. Not only do we

have our fair share when it comes to hotels, but we give free travel to asylum seekers in Scotland—something we are very proud of. I am happy to give way to the hon. Lady if she wants to come back on that, but I do not know where she is getting her figures from.

Katie Lam: My figures are from the Government release of the data for December 2024. I do not know whether the hon. Gentleman has those figures or can break them down, but they state very clearly: 1,421 asylum seekers in hotels in Scotland; 4,262 asylum seekers in dispersed accommodation in Scotland; and then 36,658 and 61,445 in the rest of the country.

Pete Wishart: I think the hon. Lady and I will have to trade these statistics privately, because the figure I have is 5,086 receiving support, and that is from the Office for National Statistics. That is where I got my figures.

Katie Lam: Will the hon. Member give way?

Pete Wishart: No, I am not going into this. I know that we are testing Dame Siobhain's patience, so we will discuss this privately and might come back to it at another date.

As well as it being the right thing to do, this new clause would also let us use the skills available to us by giving people the opportunity for employment. The people I have met in some of the hotels in Perth have brought a whole range of skills that would be easily utilised by the community in which they are placed. It makes sense to take this change forward.

In the new clause, the Liberal Democrats suggest that work should be available three months after an application is made. That might be a little bit generous. If I was drafting the amendment, I would go for the six months that has been generally agreed with the all-party groups. I think that what we have done is introduce this issue as a debate item, and I congratulate the hon. Member for Woking for that. It is something that should be seriously considered.

There have been a number of questions at the Home Office about this and from a number of Members—not just from the Liberal Democrats and the Scottish National party but from Labour. I know that we have quite a compliant set of Labour MPs on this Committee, but a number of them have raised this in debates and in questions.

Kenneth Stevenson (Airdrie and Shotts) (Lab) *rose—*

Pete Wishart: And there's one of them!

Kenneth Stevenson: I thank the hon. Gentleman for that. Can he tell me how many people in Scotland actually work, and how many are employed by the state? Where are these jobs that he is talking about, in which people are going to be employed? His Government cannot really get people employed just now. They have not been able to do that. They have not provided it. I do not see where the jobs are, but I am happy to listen to where they are coming from.

Pete Wishart: Of course, the hon. Gentleman would not expect me to have those statistics at my fingertips, so, as Ministers say, I will write to him to let him know how many people are in work in Scotland. But I say to him that we have the fastest-growing employment rates in the whole United Kingdom—something that he and I should be very proud about, given what has been created in our nation. He only needs to go and speak to some of the people in the care sectors in his constituency; they will tell him that they are crying out for available staff to come and fill the holes within their own sectors, as is the case in the health sector and in a number of others.

Kenneth Stevenson: The hon. Gentleman is talking about the care sectors, and I take it that that includes palliative care as well. St Andrew's Hospice is in my area; it costs £10 million to run it, and £3 million comes from his Government. That is an incredible shortfall. The hospice is talking about cutting numbers and not having as many staff as it would normally have, so where does the hon. Gentleman see all of these wonderful vacancy figures in care?

Pete Wishart: I am not entirely sure what point the hon. Gentleman is trying to make. I think jobs being available for ordinary Scots is the general thrust of his argument and debate, but I would just challenge him to go and speak to people who are actually working and serving in the care sector—people in the NHS. If he is really interested, he could come to my constituency and speak to those in rural sectors, and in hospitality and catering, who cannot get the people to staff their businesses, which is forcing them to close, or to open part time.

That is the reality of the situation, and here we have, sitting in these hotels, people who could do these tasks and functions. Not only that, but some of them are accountants, doctors and economists. The range of skills available in each of these hotels is quite outstanding. They speak perfectly good English. All of them could do these tasks. I think it is just such a waste that they are doing absolutely nothing other than waiting the months and months—possibly even years—for their applications to be processed by this Government.

I know this Government have improved on what was happening under the Conservatives, but there is still a long way to go before we are anywhere close to an efficient system in which people are having their applications processed readily and quickly. Therefore, I support the new clause; I think it is a good one to bring forward, and I really hope that the Government listen.

Dame Angela Eagle: New clause 11, tabled by the hon. Member for Woking, is about giving asylum seekers permission to work in the UK. The hon. Gentleman said that that would cut welfare bills, but he should be clear that those who are awaiting asylum decisions do not have direct recourse to social security, although we do have to spend money ensuring that they are not destitute while their asylum claims are processed.

Clearly, as hon. Friends on the Committee have pointed out, the answer to some of these issues is to recreate a fast, fair and efficient system of dealing with people's asylum claims, rather than to have backlogs, particularly regarding appeals, which leave people languishing for months—and sometimes well over a year—awaiting asylum decisions.

To that end, it did not help that the Illegal Migration Act was so dysfunctional that it actually banned us from dealing with people's asylum claims, and meant that this

[Dame Angela Eagle]

Government inherited a huge backlog of people—a perma-backlog, as I think we have heard during our debates on this Bill.

Clearing through that backlog and dealing with the resultant appeals for those who fail is the Government's task at the moment, but, looking past the immediate task, my view is that the way to deal with this issue is to recreate a fast, fair and efficient asylum system. That is the first point that I want to make in answer to the hon. Gentleman's new clause 11.

As the hon. Gentleman probably knows, our current policy allows asylum seekers to work in the UK if their claim has been outstanding for 12 months and the delay was no fault of their own, so there is already capacity to work for those who have been particularly delayed. Those permitted to work in that context are restricted to jobs on the immigration salary list, which is based on expert advice from the independent Migration Advisory Committee—it is usually to do with shortages and the need in the economy at the time.

The policy is designed to protect the resident labour market by prioritising access to employment for British citizens and others who are lawfully resident. Lawful residence is a very important part of the system. That includes, of course, those who have been granted refugee status, who are given full access to the UK labour market. That is in line with those seeking to work in the UK under the points-based system. We consider it crucial to distinguish between those who need protection and those seeking to come here to work, who can apply for a work visa under the immigration rules and come here legally. The UK's wider immigration policy would be totally undermined if individuals could bypass the work visa rules by lodging asylum claims in the UK. The hon. Gentleman has to understand that context, because it is very important.

Unrestricted access to employment opportunities could act as an incentive for more migrants to come here irregularly on small boats or by whatever means, clandestinely—illegally, without permission to be here—rather than claim asylum in the first safe country they reach. Although I would be the first to admit that pull factors are complex, we cannot ignore that the perception of access to the UK labour market is among the reasons why people take dangerous journeys to the UK. Therefore, opening up the UK labour market to anyone who happens to arrive on the shores, no matter how they arrived, would not help us deal with that issue, and would create incentives for more and more people to chance their arm and come here in dangerous ways.

In addition, removing restrictions to work for asylum seekers could increase the number of unfounded claims for asylum, reducing our capacity to take decision quickly and support genuine refugees. I acknowledge the concerns that the hon. Gentleman raised, but the chaos we inherited from the Conservative party has led to the backlogs that we are trying to deal with at the moment.

We have been clear that individuals who wish to come to the UK must go through safe and legal routes by applying for the visas that are available. Where the reasons for coming to the UK include family or economic considerations, applications should be made via the relevant route so they can be checked and agreed in the usual lawful way—either the points-based system, or reuniting under refugee family or reunion rules. Allowing those who have come here in an irregular fashion to work, as if there were no difference between applying for a legal visa and getting proper permission to come before arriving, would undermine the entire basis of the rules and would create many incentives that no one on this Committee would like to see.

Given that explanation and the fact that we do allow asylum seekers to work when there is a delay of 12 months or more, I hope the hon. Gentleman will withdraw his new clause.

Mr Forster: I will start with some examples of best practice from elsewhere. In Australia, most asylum seekers have the right to work straight away, even though it is temporary. In Canada, they can apply for a work permit while their asylum application is being processed. The US allows asylum seekers to work after around six months. From June next year, the EU will require member states to let asylum seekers work after nine months. Some go further—Sweden allow them to work straight away. With a one-year restriction, we are out of kilter with the rest of the western world. That is why the new clause has been tabled. I would appreciate the Minister taking away the question about the last time we reviewed the one-year limit and the restrictions on it. How often is it reviewed? An answer to that would be useful.

3 pm

Tom Hayes: I was listening carefully and had a lightbulb moment. Perhaps the Conservatives figured out what a deterrent was—it was crashing the economy and putting our country into such difficulty that it obliterated the pull factor. That might be a cruel thing to say. Does the hon. Member agree that we heard in evidence that there are pull factors in the UK in terms of our language, our diaspora and quality of life, and other countries may not have those same factors? If we agree to the new clause and make it easier for people who cross the channel illegally to work here, people may be even more incentivised to come here compared with other countries.

Mr Forster: I am happy to have given the hon. Member the chance to mention Liz Truss and attack the Conservative economic record. I take the point. If Government Members like the spirit of the new clause but do not like the detail, why have they not suggested that it should apply only to existing asylum seekers caught up in the backlog rather than new asylum seekers? I have not made that distinction. You are implying that there should be that distinction; you are not implying that, Dame Siobhain, obviously—the Government are implying that. I have not used "yous" for a while; I am afraid I did that time.

We will talk about this in a debate on a new clause that is still to come. The Government have identified that they need to improve the system. I completely agree. They have inherited a completely broken system. A further new clause tabled by the Liberal Democrats would put a legislative framework around the system, to try to improve it. If the Government are so concerned about allowing asylum seekers to work, I hope they will support that new clause.

I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 14

REPORT ON IMPACT OF CARERS' MINIMUM WAGE ON NET MIGRATION

"The Secretary of State must, within 12 months of the passing of this Act, lay before Parliament a report on the impact of introducing a minimum wage for carers on levels of net migration."—*(Mr Forster.)*

This new clause would require the Government to publish a report on the impact of implementing a carers' minimum wage on levels of net migration.

Brought up, and read the First time.

Mr Forster: I beg to move, That the clause be read a Second time.

This is a minor new clause that would require the publication of a report on the impact of implementing the carers minimum wage on the level of net migration. As MPs, we want to understand the data and facts to enable us to scrutinise the Government. Without the data, we cannot do our job properly—it is as simple as that.

Matt Vickers: The Liberal Democrats' new clause 14 would require the Government to publish a report on the impact of implementing a carers minimum wage on levels of net migration. It requires such publication within 12 months of the passing of the Act.

What outcome are hon. Members seeking to achieve with the new clause? What is the proposed minimum wage for carers that the Liberal Democrats would impose? Our care workers deserve fair pay. We are seeing the impact of the national insurance rise on the care sector and the organisations operating therein, who are now struggling to sustain themselves and deliver good jobs and good pay to the care workers they employ. What assessment has been done of the costs of such a minimum wage and how would the Liberal Democrats seek to ensure that this was fully funded?

Seema Malhotra: I am pleased to speak on new clause 14. It is unclear whether its intention is to commission a review of the impact of setting a minimum wage for new entrants or for settled workers in the care sector. I interpreted that its effect would be the Government commissioning a review into implementing a national minimum wage for workers in the social care sector. It is unclear whether it would apply to international workers or the whole labour market.

It is also unclear—I think this was the shadow Minister's point—what the minimum wage for carers being referred to is; there are no sector-based minimum wage standards. The national living wage is currently £11.44 for people aged 21 or over. It is rising to £12.21 in April. International workers on a health and care visa are currently required to be paid £11.90.

I do not believe that it is necessary to lay a report before Parliament given that the Government publish details on migration on a quarterly basis, which will show the impact of changes in inwards migration. It will not be possible for that data to show the effect of this issue on net migration, as the figures will depend on other factors such as the number of people who choose to leave the UK, which might not be a result of care worker minimum wage requirements. It is also not clear whether the report would have to look at settled workers and other workers in the labour market as well as those who are on health and care visas.

We have already seen a significant reduction in the number of international care workers recruited for just over a year, and that is because employers have been unable to demonstrate that they have genuine vacancies that would guarantee sufficient hours to meet salary requirements. The most recently published data and statistics show that in the year ending December 2024, the number of international care workers reduced by 91%. The work that the Home Office is doing with the Department of Health and Social Care is increasing the role of regional hubs, with £16 million going into them. Regional hubs play an important role in supporting workers who may have left an employer or lost a licence to find other employment. That reduces the dependency on recruiting from abroad because we are already using those who are here on those visas and wish to work, alongside continuing to recruit home-grown talent.

Perhaps the Liberal Democrats are not fully aware that we are introducing the first fair pay agreement to the adult social care sector, so that care professionals are recognised and rewarded for the important work that they do. The Government will engage all those who draw upon care, as well as those who provide care. We will also consult local authorities, unions and others from across the sector. Fair pay agreements will empower worker representatives, employers and others to negotiate pay, and terms and conditions, in a responsible manner. Crucially, they will help to address the long-standing issues with sustainability of resource, recruitment and retention that we all know exist in the care sector. That will address the workforce crisis in that extremely important sector and so support the delivery of high-quality care. Fair pay agreements are an important first step towards a national care service.

I hope that clarifies the Government's position and why it will not be necessary to lay a report before Parliament—and that certainly should not be required under this legislation, which is about stopping criminal gangs in their awful trade. I hope that the hon. Member will withdraw his proposed new clause and engage in this debate in other ways.

Mr Forster: I am happy to take the Minister up on that suggestion. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 15

A THREE-MONTH SERVICE STANDARD FOR ASYLUM CASEWORK

"(1) The Secretary of State must, within six months of the passing of this Act, implement a three-month service standard for asylum casework.

(2) The service standard must specify that 98% of initial decisions on all asylum claims should be made before the end of three months after the date of claim."—*(Mr Forster.)*

This new clause would require UK Visas and Immigration to reintroduce a three-month service standard for decisions on asylum cases.

Brought up, and read the First time.

Mr Forster: I beg to move, That the cause be read a Second time.

I highlighted this proposed new clause in a previous speech. The clause would ensure a three-month service standard for asylum casework, so that the Government can tackle the backlogs that they inherited. It would require UK Visas and Immigration to introduce that three-month service standard for decisions on asylum claims, to benefit both asylum seekers and the British taxpayer. The service standard

"must specify that 98% of initial decisions on all asylum claims should be made before the end of three months after the date of claim."

That would help the Government as they rectify the mess they inherited. If the Government suggest that the period I have chosen—three months—should be six months, I am happy to talk about that. I think that setting a stretch target—the Government are setting several, such as the 1.5 million homes target—is appropriate.

Matt Vickers: The Liberal Democrats' new clause 15 would require UK Visas and Immigration to reintroduce a three-month service standard for decisions on asylum cases, meaning that

"98% of initial decisions on all asylum claims should be made before the end of three months after the date of claim."

We agree with the principle that asylum applications should be determined as swiftly as possible, but the raft of new clauses proposed by the Liberal Democrats, including the unfunded proposals to create additional "safe and legal routes", would surely only increase the queue, and the time required to make initial decisions on claims. The Liberal Democrats do not appear to have any desire to remove those who have entered this country illegally. We can reduce decision times by deterring people, rather than inducing them to enter the country illegally. Is the proposed new clause an attempt to speed up the granting of citizenship, as per Liberal Democrat proposed new clause 13, rather than speeding up decisions so that we can deport those who have entered this country illegally?

Mike Tapp: It is worth noting that, prior to February 2019, there was a six-month standard time. That was abandoned by the previous Government around the same time that they decided to open the borders. Home Office Ministers have been looking to speed up processing as much as possible. The new clause would be unhelpful because the Home Office is often waiting on outside checks to be completed. The Home Office is, of course, seeking to speed up decisions, but its control is limited because it is trying to get through such huge backlogs. The second important point is that, if we legislate for this and an international event like the Ukraine situation occurs, we would not be able to speed up processing by putting some of the people already being processed to the back of the queue.

3.15 pm

Dame Angela Eagle: The new clause—the hon. Member for Woking spoke about it, although I am not sure whether he tabled it—would introduce a new service standard to ensure that the majority of initial decisions on asylum claims are made within three months of a claim being lodged. It is good to make initial decisions, but if we are looking at asylum claims overall, and getting people through them in a fast, fair and efficient way, we also have to think about appeals, and think about such claims from the very start to the very end, rather than just the Home Office part. That is an important thing to consider. The new clause deals with only the first part of that. If one is looking at a system-wide approach, one has to look from the beginning to the end, rather than just at the initial decision in the Home Office.

I thank the hon. Member for the new clause and stress that we are in absolute agreement that it is important that our asylum process is fair, efficient, as fast as possible, consistent with fairness, and robust. We are committed to ensuring that asylum claims are considered without unnecessary delay. Delays are not always our fault, but they sometimes have been in the past. We are committed to ensuring that those who need protection are granted asylum as soon as possible so that they can start to integrate, rebuild their lives and contribute to our society in the way we all want to see happen. As such, I assure him that we are already taking important steps to achieve that.

The Government restarted processing thousands of asylum claims that were stuck in the perma-backlog that we inherited when we came into office, and we are clearing those at pace, making initial asylum decisions. We are also delivering a major uplift in removals when people fail and have no right to be in the UK; there were 19,000 removals between when we came into office on 4 July last year and the end of January.

The Government continue to restore order to the immigration system so that every part—border security, case processing, appeals and returns—operates fairly and swiftly. By transforming the asylum system, we will clear the backlog of claims and appeals, and that work is ongoing. We have taken action to speed up asylum processing while maintaining the integrity of the system, including simplifying guidance, streamlining processes, developing existing and new technology to build on improvements such as digital interviewing, and moving away from a paper-based system.

We have also changed the law to remove the retrospective application of the Illegal Migration Act 2023, which created the perma-backlog that we had to deal with when we came into Government. That allows decision makers to decide asylum claims from individuals who have arrived in the UK from 7 March 2023, with claims to be considered against the existing legislative regime under the Nationality and Borders Act 2022, which caused much of the previous delay.

I hope that the hon. Member for Woking agrees that the work that we have put in place is starting to have a real impact. I have considerable sympathy with what he is saying in the new clause, but I hope that we will be able to get to a fast, fair and efficient system with the reforms that we are making now, rather than with the new clause.

Mr Forster: An Opposition Member and a Minister are not normally meant to agree this much, but I think we do. We probably will not vote the same way, but we generally agree. Last year, there was an asylum seeker who had waited 16 years for a decision on their claim. At the same time, there were 19 people waiting 10 years

or more for a decision. That is how broken the system is, and I do not envy the Minister her job. The new clause would support the Government's work, and I hope that Members will support it.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 15]

AYES

Forster, Mr Will	Wishart, Pete

NOES

Bool, Sarah	McCluskey, Martin
Botterill, Jade	Malhotra, Seema
Eagle, Dame Angela	Stevenson, Kenneth
Gittins, Becky	Tapp, Mike
Hayes, Tom	Vickers, Matt
Lam, Katie	White, Jo

Question accordingly negatived.

New Clause 16

EXEMPTION OF NHS WORKERS FROM IMMIGRATION SKILLS CHARGE

"The Secretary of State must, within six months of the passing of this Act, implement an exemption for National Health Service workers from the immigration skills charge for sponsoring a Skilled Worker or a Senior or Specialist worker." *—(Will Forster.)*

This new clause would require the Secretary of State to apply an exception to the NHS as an employer from having to pay the immigration skills charge when sponsoring skilled employees.

Brought up, and read the First time.

Mr Forster: I beg to move, That the clause be read a Second time.

I am happy to introduce new clause 16, which involves an exemption for NHS workers from the immigration skills charge. This new clause would require the Secretary of State to exempt the NHS as an employer from having to pay the immigration skills charge when sponsoring skilled employees.

Matt Vickers: Liberal Democrat new clause 16 would require the Secretary of State to apply an exception to the NHS as an employer from having to pay the immigration skills charge when sponsoring skilled employees. Do the Liberal Democrats not believe that we should be recruiting British workers to work in the NHS before we look to recruit overseas workers? Do the Liberal Democrats understand that this new clause could result in the NHS recruiting more people from overseas, rather than from our domestic population, further driving up those numbers? What assessment has been done of the costs of such a scheme, and how would the Liberal Democrats seek to ensure that it was fully funded?

Katie Lam: The hon. Member for Woking has tabled the new clause with a view to the role that migrant health and care workers play in UK health services. We are all deeply grateful to our doctors, nurses and care workers. They do rewarding jobs, but their roles can be difficult and gruelling, too. It is true that many people in the workforce are not British but have come to this country to do that work. We must thank them for helping to keep us and our families healthy and cared for, but it is our role in Westminster to look at the whole picture and be informed but not led by individual cases.

When we look at that picture, we see that the volumes for the health and social care visa are eye watering. Since 2021, more people have come to this country under the health and social care route than live in the city of Manchester—well over half a million, of whom many are dependents. Yes, that is because these jobs are tough, but it is fundamentally because they are underpaid. To quote the independent Migration Advisory Committee,

"the underlying cause of these workforce difficulties is due to the underfunding of the social care sector."

Immigration alone cannot solve these workforce issues. Underpaying health and social care professionals is financially self-defeating, because the money the Government save in the short term is dwarfed in the medium and long term by the costs to the state. As we have discussed this afternoon, and as the Minister has heard me say in several different settings, after five years a person who has come to this country on a health and social care visa can apply for indefinite leave to remain. If they get it, and 95% of ILR applicants are successful, they will qualify for welfare, social housing, surcharge-free NHS care—everything. That must all be paid for, and the cost is far greater than those on such salaries will ever pay in tax and far more than they save the state with their artificially low wages. Those individual workers are also at risk of exploitation as a result of the poor pay and conditions that have been allowed to endure across the sector because we have brought in workers from abroad who are willing to accept them as the price of coming to Britain.

The next, related issue with the visa is the degree to which it is abused. The MAC describes its misuse as

"a significant problem and greater than in other immigration routes".

That raises massive concerns about the safety of the patients and vulnerable people whom the system is charged with caring for.

The rules around the health and care visa need to be further tightened, not loosened through an exemption from the immigration skills charge, and they need to be enforced. That is for the good of healthcare workers and, as should be the Committee's primary concern, for the good of their patients and the country. Exempting NHS workers from the immigration skills charge, or indeed doing anything that makes it relatively cheaper still to hire migrant workers, will make the fundamental problem in the health sector's labour market even worse.

Pete Wishart: This afternoon seems to be a bit of a Lib Dem fest because of the new clauses tabled by the hon. Member for Woking. There is nothing wrong with that; in fact, I very much approve of this new clause.

To the hon. Member for Weald of Kent—I do not like to rebuke her, because that is not the sort of Member of Parliament I am, as you will know, Dame Siobhain—I say that so many people come through the health and care route because there is real need in the whole system. We need people to come and make sure that someone has those jobs. I challenge her to visit the NHS establishments in her constituency and find out

[Pete Wishart]

the real difficulties that many health professional managers have in securing the staff they require. This new clause is a practical suggestion to deal with a real issue in our immigration system. It is unfair that those who come to do some of the most demanding and low-paid jobs in the UK are forced to pay that charge.

Katie Lam: I do not disagree with the hon. Member at all about the problems in the sector. My point was that the fundamental reason for those problems is that the roles are underpaid.

Pete Wishart: We know those jobs are underpaid, and that is why so few people in the general community whom the hon. Lady would class as British-born are prepared to do them. We are dependent on people coming to our shores to do those jobs, and our health service would fall apart if they all decided to leave. We depend on them, and it is unfair that they have to pay that extra and excessive charge. I hope that the Government will look at this new clause, because I think it is reasonably good and one of the few that would make a significant and practical improvement to the situation.

Seema Malhotra: I thank the hon. Member for Woking for tabling new clause 16, which would exempt the NHS from paying the immigration skills charge when recruiting skilled workers. I recognise that the intention is to protect the NHS and reduce the cost of recruiting those vital health and care professionals. As we all know, they do a fantastic and important job for all our constituents and families in looking after the wellbeing of people across the UK. It is worth recognising, however, that the new clause would run contrary to the Government's position that we should reduce our reliance on international workers in all sectors of the UK economy, including the NHS.

The clue to what the immigration skills charge is for and why we have it is in the word "skills", so removing it would send the wrong message. We would be removing an important tool to encourage employers to look first at the domestic labour market and at what more could be done to train and improve the skills of people already in the UK, rather than looking outside it and continuing our reliance on overseas trained workers to support our public services. In the light of what the immigration skills charge is for—to help and support the development of skills and, therefore, to support the growth of our skills and talent in the UK—I hope that the hon. Gentleman will reconsider and withdraw the new clause.

3.30 pm

Mr Forster: I will start with what I describe as the brass neck of the Conservatives for breaking the NHS, the immigration system and the social care system, and then criticising my proposal for tackling those problems. I find that extraordinary. We should reduce our reliance on foreign labour to support the workforce in the UK, including the NHS, but until we have done that, I do not believe we should make the NHS pay the immigration surcharge. That is the purpose of the new clause, and I hope some Members will support me.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 16]

AYES

Forster, Mr Will	Wishart, Pete

NOES

Bool, Sarah	McCluskey, Martin
Botterill, Jade	Malhotra, Seema
Eagle, Dame Angela	Stevenson, Kenneth
Gittins, Becky	Tapp, Mike
Hayes, Tom	Vickers, Matt
Lam, Katie	White, Jo

Question accordingly negatived.

New Clause 18

COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

"The Secretary of State must—

(a) within six months of the passing of this Act, introduce legislation to ensure the United Kingdom's full compliance with the 2009 Council of Europe Convention on Action against Trafficking in Human Beings; and

(b) within eighteen months of the passing of this Act, lay before Parliament a report on how the Government is ensuring full compliance with the Convention under this section." *—(Mr Forster.)*

This new clause would require the Secretary of State to introduce legislation which incorporates the Council of Europe Convention on Action against Trafficking in Human Beings into UK law and report on compliance with the Convention.

Brought up, and read the First time.

Mr Forster: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss new clause 19—*Victims of slavery or human trafficking: protection from immigration offences—*

"(1) The Modern Slavery Act 2015 is amended as follows.

(2) In section 52 (Duty to notify Secretary of State about suspected victims of slavery or human trafficking), after subsection (2), insert—

'(2A) The Secretary of State must make such arrangements as the Secretary of State considers reasonable to ensure that notification under this section does not include the supply of information to relevant persons or authorities that might indicate that—

(a) the victim has committed an offence under sections 24 to 26 of the Immigration Act, or

(b) the victim might otherwise meet the requirements for removal from the United Kingdom or for investigation pending removal.

(2B) For the purposes of subsection (2A), "relevant persons or authorities" include—

(a) a Minister of the Crown or a government department;

(b) an immigration officer;

(c) a customs official;

(d) a law enforcement officer;

(e) the Director of Border Revenue;

(f) the Border Security Commander;

(g) a UK authorised person; and

(h) the government of a country or territory outside the United Kingdom.'"

This new clause would prevent a public authority, when determining whether a person is a victim of slavery or human trafficking, from sharing information with immigration authorities and other public authorities that might result in deportation or prosecution for an immigration offence.

Mr Forster: We need to understand the impact of our immigration laws on victims of human trafficking and modern slavery. New clause 18 would require the Secretary of State to introduce legislation that incorporates into UK law the Council of Europe convention on action against trafficking in human beings, and to report compliance with the convention. New clause 19 would prevent a public authority, in determining whether a person is a victim of slavery or human trafficking, from sharing information with immigration authorities or other public authorities that might result in deportation or prosecution for an immigration offence.

I hope that the new clauses are taken in the spirit they are intended. If they fail—based on my experience in the last hour, I think they might—I hope that Ministers and their officials will work with their teams on our immigration laws to make sure that no vulnerable person who has been a victim of human trafficking or modern slavery falls through the cracks.

Matt Vickers: Liberal Democrat new clause 18 would require the Secretary of State to introduce legislation that incorporates the Council of Europe convention on action against trafficking in human beings into UK law, and to report on compliance with the convention. New clause 19 would prevent a public authority, when determining whether a person is a victim of slavery or human trafficking, from sharing information with immigration authorities and other public authorities that might result in deportation or prosecution for an immigration offence.

We have seen the abuse of human rights legislation by criminals who want to remain in the UK, such as an Albanian criminal who was allowed to stay in Britain partly because his son will not eat foreign chicken nuggets. The judge in the case allowed the father's appeal against deportation as a breach of his right to family life under the European convention on human rights. Foreign criminals pose a danger to British citizens and must be removed, but so often that is frustrated by spurious legal claims. The human right of our own citizens to be protected from the criminals is routinely ignored. How do the Liberal Democrats plan to stop the abuse of the clauses by people who know that their asylum claim is likely to be rejected, for example?

Pete Wishart: I rise in support of the new clauses, particularly new clause 18. There have been a number of references to ECAT throughout our proceedings. New clause 18 would give clarity and ensure that we are properly engaged in all the provisions of ECAT. It is designed to ensure that those caught up in human trafficking are protected, and that Governments do everything they possibly can to ensure that people are cared for and looked after. I fully support this important new clause.

Dame Angela Eagle: I think everybody in this Committee—I am being very generous—thinks that it is important to protect the victims of modern slavery, and we have legislation in our country to try to ensure that that happens. We also signed the Council of Europe convention on action against trafficking in human beings, and this country complies with the obligations under it.

The intention behind new clause 18 is to incorporate the convention into UK law, but UK compliance is already achieved by a combination of measures in domestic legislation, such as the Modern Slavery Act 2015 and the Nationality and Borders Act, the criminal justice system and the processes set out in the modern slavery statutory guidance for identifying and supporting victims of slavery and trafficking. Implementation and compliance with those obligations does not require full incorporation into UK law, and therefore the amendment is not required. It will not really add a lot.

On new clause 19, the Modern Slavery Act provides certain named public bodies in England and Wales with a statutory duty to notify the Secretary of State when that body has reasonable grounds to believe that a person may be a victim of slavery or human trafficking. The information provided for that notification enables the UK to fulfil its obligations to identify and support victims of slavery and trafficking. The duty to notify is discharged for adults by making a referral into the national referral mechanism where the adult consents to enter the mechanism, or by completing an anonymous entry to that mechanism on the digital system where the adult does not consent. The information provided via the digital system is used to build a better picture of modern slavery in England and Wales and helps to improve the law enforcement response, so it is important that that information is collected.

The information does not include that which identifies the person, either by itself or in combination with other information, unless the person consents to the inclusion of the information. So that information can be put in there anonymously. Child victims do not need to consent to enter the national referral mechanism. As such, the national referral mechanism discharges the duty to notify.

If a person is identified in the national referral mechanism as a potential victim of modern slavery or trafficking, they are eligible for a recovery period during which they are protected from removal from the UK if they are a foreign national and are eligible for support, unless they are disqualified on the grounds of public order or bad faith. Bad faith refers to lying about one's circumstances, and public order refers to an individual who could be a danger to society. We have had some discussion about that with respect to section 29 of the Illegal Migration Act, which the Government have decided to retain but have not yet commenced. I think we also discussed section 63 of the Nationality and Borders Act.

When we came into government, the national referral mechanism decision-making process was in disarray, with a huge backlog. We ensured that 200 more caseworkers were allocated to deal with the backlog, and there has been a great deal of very good progress in getting that backlog down. The Minister for Safeguarding, my hon. Friend for Birmingham Yardley (Jess Phillips), is particularly concentrating on getting the national referral mechanism back on track as part of the battle against modern slavery.

With those responses, I hope that the hon. Member for Woking will withdraw the new clause.

Mr Forster: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 20

HUMANITARIAN TRAVEL PERMIT

"(1) On an application by a person ('P') to the appropriate decision-maker for entry clearance, the appropriate decision-maker must grant P entry clearance if satisfied that P is a relevant person.

(2) For the purposes of subsection (1), P is a relevant person if—

(a) P intends to make a protection claim in the United Kingdom;

(b) P's protection claim, if made in the United Kingdom, would have a realistic prospect of success; and

(c) there are serious and compelling reasons why P's protection claim should be considered in the United Kingdom.

(3) For the purposes of subsection (2)(c), in deciding whether there are such reasons why P's protection claim should be considered in the United Kingdom, the appropriate decision-maker must take into account—

(a) the extent of the risk that P will suffer persecution or serious harm if entry clearance is not granted;

(b) the strength of P's family and other ties to the United Kingdom;

(c) P's mental and physical health and any particular vulnerabilities that P has; and

(d) any other matter that the decision-maker thinks relevant.

(4) For the purposes of an application under subsection (1), the appropriate decision-maker must waive any of the requirements in subsection (5) if satisfied that P cannot reasonably be expected to comply with them.

(5) The requirements are—

(a) any requirement prescribed (whether by immigration rules or otherwise) under section 50 of the Immigration, Asylum and Nationality Act 2006; and

(b) any requirement prescribed by regulations made under section 5, 6, 7 or 8 of the UK Borders Act 2007 (biometric registration).

(6) No fee may be charged for the making of an application under subsection (1).

(7) An entry clearance granted pursuant to subsection (1) has effect as leave to enter for such period, being not less than six months, and on such conditions as the Secretary of State may prescribe by order.

(8) Upon a person entering the United Kingdom (within the meaning of section 11 of the Immigration Act 1971) pursuant to leave to enter given under subsection (7), that person is deemed to have made a protection claim in the United Kingdom.

(9) For the purposes of this section—

(a) 'appropriate decision making' means a person authorised by the Secretary of State by rules made under section 3 of the Immigration Act 1971 to grant an entry clearance under paragraph (1);

(b) 'entry clearance' has the same meaning as in section 33(1) of the Immigration Act 1971;

(c) 'protection claim', in relation to a person, means a claim that to remove them from or require them to leave the United Kingdom would be inconsistent with the United Kingdom's obligations—

(i) under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and the Protocol to that Convention ('the Refugee Convention');

(ii) in relation to persons entitled to a grant of humanitarian protection; or

(iii) under Article 2 or 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950 ('the European Convention on Human Rights');

(d) 'persecution' is defined in accordance the Refugee Convention; and

(e) 'serious harm' means treatment that, if it occurred within the jurisdiction of the United Kingdom, would be contrary to the United Kingdom's obligations under Article 2 or 3 of the European Convention on Human Rights (irrespective of where it will actually occur)."—*(Mr Forster.)*

This new clause would create a new "humanitarian travel permit".

Brought up, and read the First time.

Mr Forster: I beg to move, That the clause be read a Second time.

This is a comprehensive new clause, and I am tempted to be brief in my introduction to it. My Liberal Democrat colleagues would like to suggest the creation of a humanitarian travel permit to counter the gangs that the Government are seeking to attack and undermine through the Bill. We need to support those who genuinely need to travel here safely, and this new clause is an appropriate way forward. As I say, it is long and comprehensive. Hon. Members might want to ask questions about it, or they might want to take it apart, but it is a genuine suggestion about how we undermine the gangs and encourage people to come here safely.

Matt Vickers: The Liberal Democrats have tabled new clause 20, which would introduce a so-called humanitarian travel permit. The Conservatives have previously drawn up schemes such as Homes for Ukraine and the Ukraine family scheme for families seeking refuge from the war. We do not need a specific permit for people across the world to use to come to the UK, so we do not support the measure.

Seema Malhotra: I will keep my remarks brief, because there is some overlap between this new clause and the debate we had on safe and legal routes. New clause 20 proposes a new humanitarian travel permit. As we have mentioned, the UK has a strong history of protecting those fleeing war and persecution around the world.

I talked about the UK resettlement scheme that we run in partnership with the UNHCR. When people are assessed independently by the UNHCR and accepted as refugees, they may then be allocated to the UK under that scheme; it is then for the UK to provide visas to them in advance of their travelling to the UK, so that they can come here safely.

We previously discussed why there is no provision in the immigration rules for someone to be allowed to travel to the UK to seek asylum, as I think the new clause seeks to provide. There are risks: we may be sympathetic to the international system that I just mentioned, which supports people fleeing very difficult and dangerous situations, but it would be difficult to consider protection claims from large numbers of individuals overseas who might like to come to the UK. It is the case that, as part of how the system works internationally, those who need international protection should claim asylum in the first safe country that they reach. That is the fastest route to safety.

3.45 pm

It is also important to be clear that the routes by which people come to the country are always kept under review, including safe and legal routes, humanitarian routes and other routes, such as work, family or study. The upcoming immigration White Paper will set out

proposals on how we bring our immigration system back under some control, and how we ensure that it is fair, well managed and controlled, particularly after the utter chaos, in all respects, that we saw with regular and irregular routes under the previous Administration.

That is why we are taking a whole-system approach to the immigration system as part of this important debate, which will be led by evidence and will contribute data as further evidence in the future. It is also why, in relation to some of the underlying drivers of the new clause, we are determined to restore order to the asylum system, so that it operates swiftly, firmly and fairly, and to ensure that rules are properly enforced.

Mr Forster: The hon. Member for Stockton West highlighted that the scheme proposed by the new clause is not dissimilar to ones that the previous Government introduced for Ukrainians and people from Afghanistan, which I found an interesting comparison. If it is appropriate for some specific countries, why would it not be appropriate to have such a scheme on the legal shelf in case we were to need it, especially as the world is more dangerous than ever before?

Mike Tapp: To go back to what the Minister said, does the hon. Gentleman acknowledge that the UNHCR schemes do precisely that?

Mr Forster: I acknowledge that those schemes try to do that, but I do not think they are working—the exhibit for that is the number of small boats that we see and the number of people fleeing conflict. Those rules do not meet the framework that is currently required in the UK and in the world, hence this new clause. I am mindful of time, so I will be brief: I hope that hon. Members will support this new clause, which would be a good legal tool for attacking the gangs and protecting vulnerable people as they flee their homes in conflict.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 17]

AYES

Forster, Mr Will	Wishart, Pete

NOES

Bool, Sarah	McCluskey, Martin
Botterill, Jade	Malhotra, Seema
Eagle, Dame Angela	Stevenson, Kenneth
Gittins, Becky	Tapp, Mike
Hayes, Tom	Vickers, Matt
Lam, Katie	White, Jo

Question accordingly negatived.

New Clause 21

FUNCTIONS OF THE COMMANDER IN RELATION TO SEA CROSSINGS TO UNITED KINGDOM

"(1) In exercising the Commander's functions in relation to sea crossings to the United Kingdom, the Commander must have regard to the objectives of—

(a) preventing the boarding of vessels, with the aim of entering the United Kingdom, by persons who require leave to enter the United Kingdom but are seeking to enter the United Kingdom—

(i) without leave to enter, or

(ii) with leave to enter that was obtained by means which included deception by any person;

(b) ensuring that a decision is taken on a claim by a person under subsection (1)(a) within six months of the person's arrival in the United Kingdom; and

(c) making arrangements with a safe third country for the removal of a person who enters the United Kingdom without leave, or with leave that was obtained by deception.

(2) The Commander must include, in the strategic priority document issued under section 3(2), an assessment of—

(a) the most effective methods for deterring illegal entry into the United Kingdom;

(b) the most effective methods for reducing the number of sea crossings made by individuals without leave to enter the United Kingdom; and

(c) the most effective methods for arranging the removal, to the person's own country or a safe third country, of a person who enters the United Kingdom illegally.

(3) For the purposes of this section—

(a) 'sea crossings' are journeys from dry land in France, Belgium or the Netherlands for the purpose of reaching dry land in the United Kingdom; and

(b) illegal entry to the United Kingdom is defined in accordance with section 24 of the Immigration Act 1971 (illegal entry and similar offences)."—*(Matt Vickers.)*

This new clause sets out objectives and strategic priorities for the Border Security Commander in relation to sea crossings and arrangements with a safe third country for the removal of people who enter the UK illegally.

Brought up, and read the First time.

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

The Committee divided: Ayes 3, Noes 9.

Division No. 18]

AYES

Bool, Sarah	Vickers, Matt
Lam, Katie	

NOES

Botterill, Jade	Malhotra, Seema
Eagle, Dame Angela	Stevenson, Kenneth
Gittins, Becky	Tapp, Mike
Hayes, Tom	White, Jo
McCluskey, Martin	

Question accordingly negatived.

New Clause 22

ACCESS TO MOBILE PHONE LOCATION DATA

"(1) The Investigatory Powers Act 2016 is amended as follows.

(2) In section 86 (Part 3: interpretation), after subsection (2A)(b), insert

'(c) illegal immigration.'

(3) The Immigration Act 2016 is amended as follows.

(4) In paragraph 4 of Schedule 10, (electronic monitoring condition), after subsection (2)(d) insert

'(e) involve the tracking of P using P's mobile phone location data.'"—*(Matt Vickers.)*

This new clause would allow law enforcement to access mobile phone location data of people who enter the UK illegally.

Brought up, and read the First time.

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

The Committee divided: Ayes 3, Noes 11.

Division No. 19]

AYES

Bool, Sarah
Lam, Katie
Vickers, Matt

NOES

Botterill, Jade
Eagle, Dame Angela
Forster, Mr Will
Gittins, Becky
Hayes, Tom
McCluskey, Martin
Malhotra, Seema
Stevenson, Kenneth
Tapp, Mike
White, Jo
Wishart, Pete

Question accordingly negatived.

Ordered, That further consideration be now adjourned. *—(Martin McCluskey.)*

3.54 pm

Adjourned till Tuesday 18 March at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

BSAIB34 Open Rights Group

BSAIB35 Justice and Care

BSAIB36 International Organisation for Migration, Country Office for the United Kingdom of Great Britain and Northern Ireland (IOM UK)

BSAIB37 Home Office (letter to the Committee providing an update on Government amendments at Public Bill Committee)

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Eleventh Sitting

Tuesday 18 March 2025

(Morning)

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

not later than

Saturday 22 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, † Dr Andrew Murrison, Graham Stuart

Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 18 March 2025

(Morning)

[Dr Andrew Murrison *in the Chair*]

Border Security, Asylum and Immigration Bill

9.25 am

The Chair: Good morning, everyone. Would everyone please ensure that all electronic devices are turned off or switched to silent mode? We will continue line-by-line consideration of the Bill. The grouping and selection list for today's sittings is available in the room and on the parliamentary website. I remind Members about the rules on declaration of interests, as set out in the code of conduct. I also remind Opposition Members that if one of your new clauses has already been debated and you wish to press it to a Division when it is reached on the amendment paper, you should let me know in advance, please.

New Clause 24

Immigration Tribunal: hearings in public

"(1) The Nationality, Immigration and Asylum Act 2002 is amended as follows.

(2) In Schedule 5, after subsection 5, insert—

'(5A) All hearings of the Tribunal must be heard in public, and all decisions delivered in public,'".—*(Matt Vickers.)*

This new clause would require all rulings in the Lower Tier immigration tribunal to be heard in public.

Brought up, and read the First time.

Matt Vickers (Stockton West) (Con): I beg to move, That the clause be read a Second time.

It is a pleasure to serve under your chairmanship, Dr Murrison. The Conservative party has tabled the new clause to ensure that proceedings of the lower-tier immigration tribunal will be heard in public. We have seen absurd outcomes in some of the cases heard in the upper tribunal in recent months, and we feel it is important to make sure that the system is transparent and that the public have full access to the tribunal records at both levels.

Examples of recent cases reported by the *Telegraph* include that of an Albanian criminal who avoided deportation after claiming that his son had an aversion to foreign chicken nuggets, and that of a Pakistani paedophile who was jailed for child sex offences but escaped removal from the UK as it would be unduly harsh on his own children. More recently, it was reported that a Pakistani man was convicted of sexually assaulting a woman but was allowed to stay in Britain after he claimed he was gay. An Albanian criminal also avoided deportation after a judge ruled that long-distance Zoom calls would be too harsh on his stepson.

The absurdity is further emphasised by the case heard recently in which a Ghanaian woman won the right to remain in Britain as the wife of an EU national, even though neither she nor her husband was present at the wedding held in Ghana. The lower-tier tribunal stated that the marriage was not legal, but that was overturned in the upper tribunal, which ruled that the proxy marriage was recognised in law and that registration at the same time as the marriage ceremony was not mandatory.

The continued abuse of our legal system, and the use of human rights as a defence, has gone on for too long. In another case, a tribunal ruled that a convicted Ghanaian pastor who was deported from Britain for using fake documents should be free to return to the country. Despite being jailed for using illegal documentation, the individual in question appealed under article 8 of the European convention on human rights, leading a judge to revoke the deportation order, claiming that it was an "unjustifiable interference" in his human rights.

The number of decisions may be used as an argument against the new clause, but these decisions are important. The first-tier tribunal's asylum appeal backlog increased from 34,234 outstanding cases at the end of September 2024 to 41,987 by the end of December. That contrasts with 58,000 in the first quarter of this year. That is significantly more than the upper tribunal, but it underlines the importance of us knowing what has happened in these cases. Public trust is pivotal, as it—

The Minister for Border Security and Asylum (Dame Angela Eagle): It is a pleasure to see you in the Chair, Dr Murrison—I suspect that you will be bookending our proceedings, if we make reasonable progress today. Does the shadow Minister acknowledge that increases in appeal backlogs are a result of the legacy process that his Government undertook, because people whose claims were not granted in that process have appealed and added to the backlog?

Matt Vickers: We know that significantly more people are arriving in the country. In fact, since the election, the number arriving illegally is up 29%, as is the number of people staying in hotels. The Government are actually removing fewer people than arrive by small boat now. The more people arrive, the more the backlogs will become an issue. Transparency in these tribunals is essential.

Jo White (Bassetlaw) (Lab): I am really trying to get my head around the new clause. Why would decision making in public be different from decision making in private?

Matt Vickers: Public trust in these decisions is completely and utterly broken. The answer to that is not to allow a good chunk of them to go unseen by the public. The public deserve to see and the people making the decisions deserve to be held to account. We need to ensure that the law is fit for purpose. We need to see the impact of the Human Rights Act 1998 and the ECHR. That needs to be there for all to see. Public accountability and transparency are a good thing. The taxpayers out there, who fund all this, have a right to know what is going on, at any level, in the tribunals.

Tom Hayes (Bournemouth East) (Lab): It is a pleasure to serve under your chairpersonship, Dr Murrison. I agree that there is a lack of trust in our immigration and asylum system, but does the hon. Member agree that the cause of that is not the conduct of courts in public or private, but the backlogs that have been created and

the inability of the Conservatives to tackle the problems in our immigration and asylum system? Will he also reflect on the fact that the Conservatives in government had the opportunity to introduce this change but chose not to? Is he perhaps playing a bit of politics?

Matt Vickers: We have seen what has happened since the election. We will not go into the fact that numbers are up significantly, and whether the number of people arriving by small boat is down significantly, but actually, regardless of when it is changed, here is an opportunity, with a piece of legislation, to change this. The trust that the public have in the system is completely battered by these decisions, so it is right to have that transparency. The answer to the need to build public trust is not to hide a good chunk of what is going on, but to let more people see it. The light of day would be very good at getting rid of some of this toxicity, holding people to account and ensuring that the legislation that we have tomorrow is fit for purpose. As parliamentarians, we should be held to account for the legislation that we are putting forward. We should be held to account for its consequences, including in the tribunals that are making so many decisions on these cases.

Public trust is pivotal when advocating for Opposition new clause 24. It transforms the subject of the debate from a dry procedural tweak into a fundamental issue of democratic accountability. The British public's faith in the immigration system has been battered by the bizarre tribunal rulings highlighted earlier—decisions hidden behind closed doors that defy common sense and insult victims. By mandating public hearings at the first-tier tribunal, we can signal that justice is not just for claimants but for taxpayers, who fund it.

Mike Tapp (Dover and Deal) (Lab): The hon. Member has a lot to say in Opposition, but the big question is: why did he not do this when the current Opposition were in government?

Matt Vickers: We were doing lots of things. I am sure we will come on to some of the progress that was being made, including the Albania agreement, which has taken thousands and thousands of people back to Albania and reduced the number of people coming. That deterrent stopped people setting off in the first place. It was real progress.

The Bill—this is the reason why we are sitting here today—is the opportunity to shape what comes next, what impact that will have on the number of people coming across the channel and what impact that will have on public confidence in our courts system. That is what we are here for. It is why we have bothered sitting here for so many hours—to ensure that the legislation that goes forward tomorrow is fit for purpose.

Dame Angela Eagle: Not that many!

Matt Vickers: Well, we will see how much longer we get to sit. Time will tell, but I will move on.

Tom Hayes: The hon. Member is making a very powerful point about the importance of restoring trust and, to be fair to him, he has been making that point for many years. On 20 July 2021, he said in debate on the Nationality and Borders Bill:

> "Our asylum and immigration system is not fit for purpose. It lines the pockets of criminal gangs and people smugglers, and it is not fair on genuinely vulnerable people who need protection. It is also not fair on the British public, who pick up the tab."—[*Official Report*, 20 July 2021; Vol. 699, c. 902.]

I agree entirely with the hon. Gentleman about what happened in 2021, 2022, 2023, 2024 and, in fact, the years before that. Does he agree with the 2021 hon. Member for Stockton South, as he then was, that in fact the cause of the mistrust in our asylum system is the management of it, not what he is trying to address here?

Matt Vickers: I am glad the hon. Gentleman is a fan; I made an effort today with the tie. I think I was speaking as much common sense then as I am today. I agree that the system does not work. That is why we are here. It is why I hope these proposals will make a difference. It is why we are trying to improve the system. And that is why I think we should have transparency in these tribunal outcomes.

As I said, we are talking about decisions hidden behind closed doors that defy common sense and insult victims. By mandating public hearings at the first-tier tribunal, we can signal that justice is not just for claimants, but for taxpayers who fund it and citizens who live with its consequences. Transparency exposes these absurdities, has the potential to curtail judicial overreach, and could reassure a sceptical public that the system prioritises their safety and fairness over secretive leniency, because trust, once lost, is hard to rebuild.

It is only right that the general public, who foot the bill for these cases time and again, are allowed to fully understand what their money is being used for. It is only right that the public can see these sessions so that there is a place for scrutiny and accountability. It is only right that such a shameful abuse of the UK's legal system be exposed to the taxpayers of this country.

Mike Tapp: It is a pleasure to serve under your chairmanship, Dr Murrison. The hon. Member for Stockton West has made a creative argument, and I will try to bring some sense to it. First, we have to look at what the new clause would actually do for the country and our judicial system. Public hearings could expose vulnerable individuals, including victims of persecution or trafficking, to undue public scrutiny, which could deter genuine applicants from seeking justice. There are also security risks. Sensitive information about applicants' backgrounds, including details that could endanger their families in their home countries, could be exposed.

There is also the risk of the legal system being overloaded further, given what we have inherited. Increased public interest in the hearings could lead to more appeals and challenges, which would cause more delays and inefficiencies in the system. Finally, the new clause is simply unnecessary as courts already have the discretion to allow public access when appropriate. It would remove vital judicial flexibility.

Katie Lam (Weald of Kent) (Con): It is a pleasure to serve with you in the Chair, Dr Murrison. After years of broken promises, it should come as no surprise that the public do not trust politicians in Westminster on immigration. The distrust is compounded by regular reports of individual cases in the immigration system, the most shocking and nonsensical of which are often those of foreign criminals allowed to remain in this country due to human rights laws.

[Katie Lam]

The system is broken. It has been broken for many decades, and that is now plain to see. Our basic decency—our desire to do the right thing—is exploited by paedophiles, rapists, terrorists and hardened criminals, who threaten not just individual members of the public, which is terrifying enough, but the broader social fabric of our country. The news reports that we read are possible only because upper tribunal judgments on asylum and immigration are published at regular intervals. The publication of those judgments allows everyone in the country to see what tribunal judges have decided in asylum, immigration and deportation cases. Crucially, it allows us to scrutinise both their decisions and their reasoning. We can see why the judgments were made and what that says about our laws, and decide for ourselves whether we think that is right. Judges are not accountable to the public, but transparency allows everyone to see our laws in action and to form a view about whether they are the right ones.

However, upper tribunal judgments do not tell the full story. All immigration and asylum cases are first heard by a lower-tier tribunal, the judgments of which are not made available to the public. Unless the initial decision of the lower-tier tribunal is appealed, the public do not ever get access to the details of any given case. Given the absurdity of the cases that we do hear about, many members of the public will rightly be wondering what is happening in the cases that we do not see.

If we want to restore public trust in the immigration system, we must restore transparency. Publishing the decisions of lower-tier tribunals is not the biggest or most consequential change in the grand scheme of our broken immigration system, but it is a meaningful one. The public have a right to know about the way our tribunal system works, to know about the rules judges use to make fundamental decisions about immigration and asylum—about who can be in this country and why—and to see how those rules are applied in practice so they can decide for themselves whether that is right or wrong and whether it serves Britain's interests. That is why we tabled this new clause, and we sincerely hope that the Government will consider making it part of the Bill.

Margaret Mullane (Dagenham and Rainham) (Lab): It is an honour to serve on your Committee, Dr Murrison. I do not see how turning border security into public discourse on a case-by-case basis is beneficial to the process, either for those administering or presiding over the hearings, or for those subject to the tribunal process. I accept that there is an argument for greater transparency, but given the circumstances of people's arrival at our borders—they are fleeing trauma, in a vulnerable state—I feel it is inappropriate to parade the lives of asylum seekers in the public domain.

I have every faith that the Bill will create a robust system that is effective and accountable. The new clause would add nothing to its overall strength. The hon. Member for Stockton West says that trust has been lost in the asylum system. I think it will take this Bill and this Government to bring that trust back.

Dame Angela Eagle: I have to compliment the hon. Member for Stockton West on his tie, since he raised it, and the hon. Member for Weald of Kent seems to have good taste in the colour of her jackets. I promise that that is the last fashion statement that I will make in our proceedings today.

On new clause 24, we agree that accountability and transparency are absolutely vital for building trust and credibility in the immigration system. Under rule 27 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014—note the date—the presumption already is that hearings at the first-tier tribunal must be public unless the first-tier tribunal gives a direction that it or part of it is to be held in private. Indeed, the majority of hearings at the first-tier tribunal are public. However, there are sometimes appropriate reasons for a hearing not to be public. For example, hearings may be held in private to preserve confidentiality in respect of sensitive medical details or to protect the privacy of a victim of a serious crime—for example, of a sexual nature. It may also be done to protect a party or witness from duress.

That is precisely why the Tribunal Procedure Committee has broad discretion to determine what practice and procedure in the first-tier tribunal will best support the overall interests of justice, and why the judiciary has a range of case management powers under the tribunal procedure rules to decide how individual cases should proceed. Those tribunal powers were published and written when the party of the hon. Member for Stockton West was in government, in 2014. It is expected that judges will have a wide discretion in dealing with these sensitive issues.

On making rulings of the first-tier tribunal available to the public, currently judgments of the immigration and asylum chamber of the first-tier tribunal are not routinely published. The decision about whether to publish a judgment is a judicial one. However, members of the public and the media can apply to the tribunal for a copy of the judgment in a specific case. I know that the Lord Chancellor will continue discussions with the judiciary about how we can bolster accountability and transparency to build public confidence, but I cannot help feeling that perhaps certain people who might work for a certain newspaper are getting to the end of their search engines for absurd cases that they can publish, and want a whole new database to search. If they want to bring these issues out into the open at the first-tier tribunal, perhaps they should send some reporters to listen to the case or apply on an individual basis for the judgment to be published. Perhaps that might assuage their ongoing interest in these issues.

Matt Vickers: I thank the Minister for her opinion, but we stand by this new clause. We want greater transparency, and we think this is an opportunity to do just that and allow the public to see what is and is not going on, so we will press it to a Division.

9.45 am

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

The Committee divided: Ayes 2, Noes 12.

Division No. 20]

AYES

Botterill, Jade	McCluskey, Martin
Eagle, Dame Angela	Malhotra, Seema
Hayes, Tom	Mullane, Margaret

Murray, Chris	Tapp, Mike
Murray, Susan	White, Jo
Stevenson, Kenneth	Wishart, Pete

NOES

Lam, Katie	Vickers, Matt

Question accordingly negatived.

New Clause 25

QUALIFICATION PERIOD FOR INDEFINITE LEAVE TO REMAIN IN THE UNITED KINGDOM

"(1) The minimum qualification period for applications for indefinite leave to remain in the United Kingdom is a period of ten years.

(2) The qualification period in subsection (1) applies to a person who has—

(a) a tier 2, T2, International Sportsperson or Skilled Worker visa,

(b) a Scale-up Worker visa,

(c) a Global Talent, Tier 1 Entrepreneur or Investor visa,

(d) an Innovator Founder visa,

(e) a UK Ancestry visa, or

(f) a partner holding UK citizenship.

(3) A person who has lived in the United Kingdom for ten years or more but does not meet the criteria in subsection (2) cannot apply for indefinite leave to remain in the United Kingdom."
—(Matt Vickers.)

This new clause would extend the qualification period for applying for Indefinite Leave to Remain in the UK to ten years and abolish the long-stay route, through which a person can apply for Indefinite Leave to Remain based solely on having lived in the UK for ten years or more.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The Conservative party is clear that the ability of immigrants to remain indefinitely in the United Kingdom and to acquire British citizenship should be not an automatic right, but an earned privilege, reserved for those who have made a real commitment to the UK. New clause 25 would increase from five to 10 years the period before a person can claim indefinite leave to remain, and add conditions to ensure that those applying for indefinite leave to remain have not claimed benefits or relied on social housing while here on work visas. Those claiming indefinite leave to remain must also be able to demonstrate that their household would be a net contributor and that they do not have a criminal record.

It is only right that individuals prove they have made a positive contribution to the United Kingdom and that their place in society is justified. For too long, the United Kingdom has been seen to have an open door policy, and this has been abused. Enough is enough. The 10-year rule would prove commitment—five years lets you settle; 10 years lets you prove you belong. It is enough time for people to learn our language, adopt our values and pay their dues.

Tom Hayes: This proposal has emerged before the Leader of the Opposition sets in train her new policy commissions, including one on immigration, so it is good to get a teaser today. Under this proposal, will a person who would seek to apply for indefinite leave to remain after 10 years be required to apply for limited leave to remain every 30 months?

Matt Vickers: The hon. Gentleman has got me. I was hoping he was going to spout some more of the common sense that I have contributed to *Hansard*.

Pete Wishart (Perth and Kinross-shire) (SNP): He doesn't know!

Matt Vickers: We have said 10 years. That is a principle actually—

Tom Hayes: I might be able to help the hon. Gentleman. The IPPR, which listens to the voices of migrants, asylum seekers and refugees navigating that 10-year process—people who look to settle here legally—and which looks at the data, published a report, "A Punishing Process", which talks about some of the administrative costs and difficulties of the process. As part of the Leader of the Opposition's new commission on immigration, will the hon. Gentleman be able to provide an assessment of the true cost to the Home Office of an individual applying for LLR every 30 months? Will he would maintain the requirement that people have to pay £2,608 as an adult and £2,223 for a child in visa fees? One of the concerns of the IPPR report is that poorer people often get pushed into greater poverty by having to apply every 30 months.

Matt Vickers: We have processes in place that determine this, and they do come with a cost. However, the cost to the British taxpayer of allowing this to go on unabated is that much greater. There are processes in place and there are costs attached to them, but there are huge costs attached to allowing people indefinite leave to remain on shorter terms than we are suggesting.

Tom Hayes: Can the hon. Gentleman tell me which evidence base supports that assertion?

Matt Vickers: There is huge cost. I will come to what the cost will be in the next few years of the number of people who are about to gain indefinite leave to remain.

Tom Hayes: Can he give me the name of the report?

Matt Vickers: No, I will not give him the name of the report.

Applying the 10-year rule, rather than the five-year rule as now, would prove commitment. As the shadow Home Secretary, my right hon. Friend the Member for Croydon South (Chris Philp) said:

"A British passport is a privilege, one that has been debased by benefit tourism for too long. Our plan gets it right, making sure that those who pay their way get to stay."

The Prime Minister, bizarrely, does appears to think that British citizenship is not a pull factor, so much so that the Government are seeking to repeal swathes of the Illegal Migration Act 2023 passed under the previous Conservative Government. In doing so, this Government will scrap rules that meant that almost all those who entered the United Kingdom illegally would not be entitled to British citizenship, and that asylum seekers who failed to take age tests would be treated as adults. Those were common-sense policies. We are calling on all parties, and especially the Government, to support

[Matt Vickers]

this new clause. We need to ensure that everyone who comes to this country is willing to contribute and to integrate into our society.

Chris Murray (Edinburgh East and Musselburgh) (Lab): It is a pleasure to serve under your chairship, Dr Murrison. Madeleine Albright, the former US Secretary of State, was first a refugee in the UK, and she said that, in Britain, people would say to refugees, "You're welcome here…and when are you going home?" whereas, in America, they said, "You're welcome here…and when will you become a citizen?" Does the hon. Member not think that the problem the last Government created was that they moved to a high-churn model of migration, with huge numbers of people coming in, working in low-paid jobs, not integrating and then leaving, and more people coming in? We want to incentivise people to learn the language, engage with our institutions and follow our rules, which means that pathways such as this are really important, not the model that we have seen for the past 14 years.

Matt Vickers: The principle here is that we are saying, "You will get indefinite leave to remain, not after five years but after 10 years." We have already had the debate about British citizenship and what that means—all the benefits that come with it and all the costs to the taxpayer that are attached to it. I therefore I think that this principle is right: if someone is going to stay here, they have to have been here longer, earned their keep, contributed and integrated properly. I think that 10 years allows that. I think that this is the way forward, and I stand by it.

Tom Hayes: I thank the hon. Member for his patience in allowing me to intervene again. Is it not fair of the Government to accept only those amendments whose details are actually known and worked up; and is it not, therefore, unfair of the hon. Member to press a new clause when he has not worked out the details of what its implementation would look like?

Matt Vickers: The details and the need for people to engage with the authorities are already in place. This new clause is literally about saying "10 years" instead of "five years". No part of it amends existing provisions regarding migrants' responsibility to account for themselves during that period. There is no suggestion of any change to that; it is beyond what we are amending through the new clause. If we wanted to change that, there would certainly be a debate to be had, and there would probably be opportunities to bring forward amendments, but that is not what we are proposing here. We are proposing to increase the period from five to 10 years.

Our country is our home; it is not a hotel. We can guess what the Government's response to this will be—more deflection and criticism—but they must remember that they are in government now and have a duty to protect the British taxpayer from unnecessary costs. If they do not act, every UK household is forecast to pay £8,200 as a result of between 742,000 and 1,224,000 migrants getting indefinite leave to remain in the next couple of years. The Government must act to ensure that everyone who stays in the country is a net contributor.

It may interest the Government to know that changes to indefinite leave to remain have happened before—and can and should happen again now. In 2006, under the then Labour Government, the Home Secretary extended the time required to obtain indefinite leave to remain from four years to five years, an extension that applied retroactively to those already actively pursuing indefinite leave to remain. It is hoped that this Government will make a similarly bold move and support new clause 25.

Before the accusations start to be thrown around, let me make it crystal clear that new clause 25 is not some cold-hearted exercise in exclusion; it is a robust, principled stand for expectations—a line in the sand that says that if someone wants to live here, stay here, and call Britain their home, that comes with a reasonable cost. That cost is not measured just in pounds and pence, but in commitment, in responsibility, and in proving that they are here to lift us up, not weigh us down.

A recent study undertaken by the Adam Smith Institute found that, according to figures produced by the Office for Budget Responsibility, the average low-wage migrant worker will cost the British taxpayer £465,000 by the time they reach 81 years of age. It is clear that opening the ILR door to millions of new migrants will impose a considerable and unwanted financial burden on the British taxpayer for decades to come.

The OBR report explores the opportunity to reform indefinite leave to remain rules, which new clause 25 seeks to do, to help mitigate the long-term fiscal burden of low-skilled migrants, who are unlikely to be net contributors to the public purse. A refusal to back new clause 25 is not just inaction, but a choice to prioritise the untested over taxpayers—to keep the welcome mat out while the costs pile up. The Opposition say no, this is our home, and we expect those arriving to treat it as such.

Pete Wishart: It is a pleasure to once again to serve under you as Chair, Dr Murrison. When I look at the Tory amendments in their totality, they are quite frankly an absolute and utter disgrace. It is as if the Tories have learnt absolutely nothing from the Rwanda debacle and the Illegal Migration Act 2023. Some of the amendments that we will be debating are simply heinous, lacking in any reasonable standard of compassion and empathy. What a country they would create: one devoid of human rights and international protections, where people are simply othered and deprived of any rights whatsoever. Some of the most desperate and wretched people in the world would be denied and booted out.

I used to say that the Tories would never beat Reform in the race to the bottom, but looking at the collection of amendments that we are debating today, they are going to give it their best shot. It is just possible that they will out-Reform Reform colleagues in the House of Commons. The amendments are not only terrifying but ludicrously unworkable—blatant political grandstanding, designed to appeal to the basest of instincts. We have the grim task of having to debate them one by one; I just hope that the Committee will reject them totally out of hand.

New clause 25 was raised in a blaze of publicity at the end of the self-denying ordinance from the Leader of the Opposition when she announced her new immigration policy, which I understand has been changed and finessed over the course of the past few weeks, but is still as

grotesque underneath as it started. The Conservatives do not believe that British citizenship should be a privilege; they believe that British citizenship should be virtually unobtainable, and that the strongest possible tests must be applied before anybody is ever going to get the opportunity to call themselves a British citizen. That is totally and utterly self-defeating.

The provision will apply to work-based visa holders, skilled workers and global talent, who can currently apply for ILR after five years. Extending that period to 10 years could deter highly-skilled workers and investors from coming to stay in the UK. It may lead to workforce instability, particularly in sectors reliant on international talent. It would also disadvantage certain migrants and people who have lived legally in the UK for 10 years but do not hold one of the listed visas. This is an unworkable, crazy proposal that can only be self-defeating and have a massive impact on our economy. It would create a massive disincentive to the very people we need to come into the UK to fill some of our skills gaps. I hope the provision is roundly rejected.

Jo White: It is a pleasure to serve under your chairship, Dr Murrison. We should never be surprised by the audacity of the Conservative party, which now exists in a state of amnesia following the previous 14 years of failure, collapse and chaos. Let me take a moment to remind Opposition Members of their failed promises.

A good place to start is the general election campaign of 2010, when David Cameron said that his Government would reduce net migration to the tens of thousands. At that point, net migration stood at 252,000. In 2011, he went further, saying that his target would be achieved by the 2015 general election—"No ifs. No buts." But when the ballot boxes were opened in that election, numbers had risen to 379,000. Then along came Theresa May. At the snap 2017 general election, net migration stood at 270,000, and she had an election pledge to get net migration down to the tens of thousands, but by 2019 the number had risen to 275,000.

10 am

Next, Boris Johnson promised yet again to bring down net migration, saying he would reduce the number of unskilled workers coming into the country. In 2020, net migration rose again, to 374,000. With the labour shortages following covid, more visa routes had to be urgently opened for lorry drivers, bus drivers, the hospitality sector and for high-skilled roles, after the Conservative Government failed to invest in British workers.

Then the small boats crisis began, with the Conservative Government failing to do anything to stop its source, its methods or the routes. Under Rishi Sunak, they came up with a wizard idea that sending a group of arrivals to Rwanda would stop the boats. Well, we all know the outcome of that failure: 80,000 people arrived on small boats during that period. By June 2024, net migration stood at 728,000. Now we have the leader of the Opposition wanting to act tough on migration, but with her party's recent history, how can anyone believe a word she says? All the Conservatives' credibility is gone. This Government are focused on sorting out their mess. In my view, new clause 25 is yet another wheeze—speak big, but do little.

Katie Lam: How can I begin my remarks without repaying the Minister's kind words about my clothing? This is one of my favourite jackets and I am delighted to see that it might also be one of hers.

It is no secret, as the hon. Member for Bassetlaw has just set out, that previous Governments of different parties have failed the British public on immigration. The level of immigration to this country has been too high for decades and remains so. Every election-winning manifesto since 1974 has promised to reduce migration. As my right hon. Friend the Member for North West Essex (Mrs Badenoch) has said, the last Government, like the Governments before them, promised to do exactly that, but again like the Governments before them, they did not deliver. Because of that failure to deliver, the British public may face a bill of more than £200 billion in the years ahead, unless we change the rules on settlement.

Under current rules, after just five years in the UK, migrants on work or family visas will become eligible for indefinite leave to remain. If they are successful, and 95% of ILR applicants are, they are entitled to welfare, social housing, surcharge-free access to the NHS and more. According to the Centre for Policy Studies, some 800,000 migrants could claim ILR over the course of this Parliament. Given the profile of those who are likely to qualify, that could come at a lifetime cost of £234 billion.

Tom Hayes: Will the hon. Member give way?

Katie Lam: I will gladly.

Tom Hayes: Sorry, I coughed and laughed at the same time, partly because I think the hon. Member anticipated the point I was about to make. I will put this on the record again, as I have consistently. She may have more information to come back to me with and I will come back to her. The Centre for Policy Studies report is flawed. It has skewed information; it uses assumptions that are unreasonable and the financial modelling that ensues is therefore unreasonable. As a consequence, it feels like the Centre for Policy Studies and the hon. Member are reaching for a very large number to create the impression that there will be a very significant financial burden.

I make two additional points. First, even if that report relied on reasonable assumptions and therefore the modelling was correct, the Boris wave was caused by her party's Government. She is nodding her head; she affirms that. I welcome that, in her speech, she has so far acknowledged the failings of that Government. Secondly, the report makes some very big assumptions about the future behaviour of the people currently in the migration system in our country. That is not a wise move, particularly when she is extrapolating £235 billion to £240 billion across a very long timeline. In fact, if we were to break it down on an annualised basis, even using the report's flawed assumptions and flawed modelling, the figure would be far smaller. We need to have some integrity in the data that we use. Does she agree?

Katie Lam: As Professor Brian Bell said in evidence to this Committee—in a session to which the hon. Member for Bournemouth East has referred a couple of times—

"It is actually extremely difficult to work out the fiscal impact of migration."—[*Official Report, Border Security, Asylum and Immigration Public Bill Committee,* 27 February 2025; c. 59, Q92.]

That is clearly true: forecasting the lives of millions of people over decades will obviously have a substantial margin for error.

[Katie Lam]

The only way to avoid that error would be not to try to forecast in the first place. I have repeatedly asked the Home Office, over several months, whether anyone in that Department or any other—indeed, anyone in Government—is attempting to forecast the cost to the public purse of the ILR grants that will come in this Parliament. I am yet to receive an answer. To me, that clearly says that nobody in Government is thinking about the impact the issue will have and how much it will cost. When they do, I will happily use those numbers. Until and unless that happens, the modelling from the CPS is the best we have—in fact, it is all that we have.

Tom Hayes: This is my last intervention on this matter. I take the hon. Lady's point entirely, but will she not acknowledge that the modelling has deep, fundamental flaws? Although it may be the only modelling and therefore the best, on the strength of what is in that report it is still not worth considering or using in parliamentary debate.

Katie Lam: I have already acknowledged that the margin for error is massive—that is clearly true. If everything that the hon. Member is saying is correct, I would like to see Government figures to replace the CPS figures. I think that is a reasonable request.

The £234 billion cost is equivalent to £8,200 per household, or around six times our annual defence budget, and this about not just money but capacity. Our public services are clearly already overstretched and this could push them to breaking point. If we accept, as we should, that previous Governments have failed on migration, then we should do everything in our power to limit the long-term impacts of that failure. That is why the Conservatives propose to extend the qualifying period for ILR and reform settlement rules to ensure that only those genuinely likely to contribute will be eligible for long-term settlement. That would give us an opportunity to review visas issued over the last few years. Those who have come to this country legally on time-limited visas and have subsequently not contributed enough, or have damaged our society by committing crime, should be expected to leave.

The Prime Minister has repeatedly said that the levels of immigration under the last Government were wrong and that it was a mistake to allow so many people to come to the UK. This amendment would allow the Government to limit the long-term consequences of that mistake, so why would they oppose it? It is not too late to change our rules around settlement. By refusing to extend the eligibility period for indefinite leave to remain, the Government are actively choosing to saddle the British taxpayer with a likely bill of hundreds of billions of pounds. We must make difficult decisions on this reform and the many others required in our migration system. Those decisions may be painful, especially in the short term, for individual people, families or businesses but they are the only way for any Government's actions to match their words. The public have had enough and rightly so.

The hon. Member for Bournemouth East talked about LLR, which must be applied for every two and a half years on the existing 10-year route. That is the case only because, as it stands, the 10-year route, by design, is for those not on eligible visas. The five-year route that we here propose to change is exclusively for those on eligible visas. I therefore cannot see why, within the existing rules, there would be any requirement for LLR applications. I hope that reassures the hon. Member.

Margaret Mullane: The new clause is not in keeping with the provisions outlined in the Bill, which primarily focus on border security through new and strengthened law enforcement powers, providing intelligence to address organised immigration crime.

I fundamentally disagree with the context of the new clause. Subsection (2) relates to existing legislation whereby the qualification of indefinite leave to remain applies to people on skilled work visas, scale-up worker visas, entrepreneurial or investor visas, innovation founder visas, or UK ancestry visas, and people with a partner who holds citizenship. Those people are, for the most part, contributing to our society through work. If somebody has been living and working here in a skilled role, or innovating in our country—and possibly even supporting job creation—for five years, that is long enough for them to identify Britain as their home. They will have friends and community networks. In most instances, they are boosting our economic productivity. The increased qualification period set out in the proposed new clause would move the goalposts for skilled workers after years of contribution.

I will bring the conversation back to the purpose of the Bill: the Committee's focus should be on those entering the UK illegally and those engaged in organised immigration crime, not the construction workers, nurses, doctors, investors and business owners in Britain on work visas.

Tom Hayes: I will speak briefly. I welcome the hon. Member for Weald of Kent's clarification of the Conservative party's position on the amendment, but that clarification also raises further questions; I wonder whether the hon. Lady could respond on the spot. If there is no requirement every 30 months in the 10-year period for an individual to pay fees of £2,608—or, for a child, £2,223—to the Home Office, how will the Home Office fund much of its work? The fees paid by adults and children contribute significantly to the Home Office's budget. The point is particularly important because the Home Office has had to borrow from the official development assistance budget in order to fund asylum hotels. I worry that there is going to be a significant financial gap here, and I wonder if the hon. Lady could clarify what her costings are?

Katie Lam: I think the hon. Gentleman is eliding two different routes. At the moment there is a five-year route, which is for people on eligible visas, and a 10-year route. The 10-year route has LLR requirements that have to be applied for every two and a half years, and is the route that generates the fees that he is talking about. Under the amendment, that would not change; we are proposing changes only to the five-year route. The five-year route at the moment does not have LLR requirements because it is for people on eligible visas. The income for the Home Office from the same people should be no different under the amendment that we are proposing. I hope that that is clear.

Tom Hayes: I am happy to accept that clarification. If that is correct, I look forward to seeing more information about the particular policy, what financial costs would be involved and what the financial benefits would be.

Finally, I echo the point made by my hon. Friend the Member for Edinburgh East and Musselburgh about the importance of settling. We talk here about the financial costs: it is going to be more costly to our country and public services if somebody is having to go through many years of unsettled status. It is going to be harder for them to have all the infrastructure and anchors that they need within society. As a consequence, I would love to know whether the Conservatives have done any modelling of the impact of increasing the period of limbo, including—as mentioned in the IPPR report that I referenced earlier—the cost to public services when people find themselves homeless, with difficult mental health conditions or unable to take their child to the school that they want and have to travel significant mileage.

The hon. Lady and I share a desire for the integrity of data and its greater availability. In proposing the amendment, does she have access to any of that information?

Katie Lam: I will come back briefly. If I have properly understood the hon. Member's question, he is asking what we think the impact will be on the number of people who would still apply for ILR after 10 years.

Tom Hayes *indicated assent.*

Katie Lam: He is nodding.

Part of what we are trying to say by extending the time is that we feel that a person's commitment to the UK before they apply for settlement should be longer than five years. If application numbers go down because people feel that they do not want to commit for 10 years before getting settlement, that is something that we are happy to accept as part of the amendment.

It seems from the numbers that we have at the moment that the number of people who would apply over an extended period would go down because fewer people would qualify under the rules that we are stipulating. The reason why they would not qualify is that they would not be making a sufficiently significant contribution to the public purse over that period. Our calculations are that all of those lost applications would be net fiscally positive.

Tom Hayes: In which case, I will close by saying that the Home Office data shows there is not that drop-off of people—people do not leave the country because they have to wait longer for their status. In fact, those people try to get that status by serving within our country and economy. The Home Office data, which is publicly available on gov.uk, records what the stay and departure rates are each year. I am not sure that the amendment and the policy within it are going to achieve the goal that the hon. Lady is seeking.

Katie Lam: I totally take the hon. Gentleman's point, but I think he is answering a slightly different point. What we are saying is that the combination of the extension of time and the change in criteria would lead to lower applications. It is not so much about a choice on the part of the individual migrant, but a structural change within the system.

Tom Hayes: The very last point I will make is that I understand what the hon. Lady is saying, but that is not what my point was about. This would not be a deterrent or an incentive for people to leave the country. People would still remain in the country. The health impacts and the limbo that people would experience through their inability to settle would still create a fiscal drag.

10.15 am

The Parliamentary Under-Secretary of State for the Home Department (Seema Malhotra): It is a pleasure to serve under your chairship, Dr Murrison, and to make a few remarks at the end of this interesting debate. I will make a few general comments first and then make more detailed comments on new clause 25.

It is worth re-stating some of the shadow Minister's points. He said that, for too long, we have had an open-door policy that is open to abuse. He also said that we should remember that we are in government. He is absolutely right that the Tories lost control over our immigration system. We do not need reminding of that—nor do we need reminding that we are in government clearing up their mess.

The context for a lot of the debate today has been the massive backlogs that have built up in every part of the system, the failure to have controls over our system, the levels of abuse and the fall in returns for those who have no right to be here. It is worth mentioning that the steady increase in settlement grants in 2017 reflects high levels of migration in previous years. It is almost as if the Tories are attempting to close the gates to the field from which the horses have long bolted, and everyone else is now picking up the pieces.

It is worth correcting the impression that the shadow Minister gives about our policy. We agree that settlement in the UK is a privilege; it is not an automatic entitlement. However, we understand that the immigration system needs to account for people in a range of circumstances beyond those specified in new clause 25. We also recognise and value the contribution that legal migration makes to our country and believe that the immigration system needs to be much better controlled and managed.

Provisions for settlement are set out in the immigration rules, so the Bill is not the correct legislation for debate about requirements for settlement. What we are doing with this Bill is strengthening our borders, going after the criminal smuggling gangs that have caused so much damage to the lives of migrants already and put lives at risk daily, and securing our borders against systemic abuse.

New clause 25 would restrict settlement in the UK to a handful of economic routes and partners of British citizens. Other routes to settlement in the current immigration system would therefore be excluded from settlement should the new clause be accepted, including settlement for refugees. The shadow Minister may have a view about, for example, a situation facing an Afghan interpreter for the British armed forces who put their life at risk, was evacuated to the UK after the chaos in Kabul in 2020 and was then put up in taxpayer-funded accommodation after arrival in the UK. Correct me if I am wrong, but under clause 25 they would be banned from ever settling in the UK.

[Seema Malhotra]

It is important that we understand that settlement in the UK is privilege, the argument for which was rightly made. It is right because settlement conveys significant benefits, including the right to live here permanently and to access work, study and public funds, as well as a pathway to citizenship. We also have rules and processes to recognise the expectation that people should serve a period with temporary permission before being eligible to apply for settlement.

There is a range of periods of time that people need to spend in the UK before they can qualify for settlement. Many are five years, but there are shorter periods for exceptional routes. The hon. Member for Stockton West did not lay out his view on some of those specialised routes that may offer a shorter path to settlement, such as the global talent route or the innovator founder route. They allow settlement within three years to help the UK to attract the best talent from around the world, and they reward those working in business who are making some of the greatest economic contributions.

While I want to quote from the Centre for Policy Studies and the Adam Smith Institute, as they are the most important references in these debates, the new clause does not really think through the immigration system as a whole. We must think about it being fairer, more controlled and managed, and we must ensure that it recovers from the chaos that the last Government left it in. Indeed, as the hon. Member for Stockton West will know, the Government will also set out our approach to immigration, including how we bring net migration down and how we link skills policy with visa policy, so that we reduce our dependence on recruiting from overseas. We will be setting out that coherent approach to a future immigration system in a White Paper that is coming out later this spring.

Matt Vickers: I am stunned—shocked. In fact, I cannot believe that the SNP is less than enthusiastic about our new clause. The Minister and the hon. Member for Bassetlaw were keen to talk about records, but at the risk of repeating myself, immigration is too high. Previous Governments have failed to solve it. I would love for the Government to succeed in doing so, but I am not convinced that they will, particularly without a robust deterrent. I say it again: since this Government were elected, the number of people arriving here illegally is up 28%, and the number of people in hotels is up 29%. There are 8,500 more people in hotels in communities across the country, and fewer of those people who arrive by small boat are being returned.

Seema Malhotra: Does the shadow Minister also agree that, since we came into government to the end of January, returns were almost 19,000, which is up around a fifth on what they were 12 years before, including an increase of about a quarter on enforced returns? He may want to talk more about that.

Matt Vickers: I am sure the Minister will agree that a large part of those are voluntary returns. I am sure a large part of them may also benefit from some of the agreements made by the previous Government. Actually, when we talk about the people arriving here illegally on small boats, the number is up significantly in the last two quarters, since this Government came into office. That is a fact.

Tom Hayes: I am reading from the Home Office website, which says:

"Comparisons of arrivals between the same months in different years may also be affected by differences in conditions. As a result, we do not make comparisons between shorter periods where arrival numbers…may fluctuate considerably."

The Home Office also comments:

"Financial, social, physical and geographical factors may influence the method of entry individuals use and the types of individuals detected arriving… These factors may also change over time."

Therefore, is it not the case that looking at just two quarters, and trying to make a comparison, is not really the most robust way of doing this? Is it not better to reflect on the Bill and the changes it is seeking to introduce, and to realise that it will make a significant difference in the medium to long term?

Matt Vickers: Two quarters is a significant amount of time. This is a record. The hon. Gentleman might not be comfortable with it, but the number of people who have arrived here illegally being returned is going down significantly. It is a fact, and this new clause matters. More than 742,000 people will qualify for indefinite leave to remain in the next couple of years. As we have said, that could cost our constituents £8,200 per household. That is a significant cost to people in my part of the world. Because of that cost to my constituents, I would like to press the new clause to a Division.

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

The Committee divided: Ayes 2, Noes 13.

Division No. 21]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Murray, Chris
Eagle, Dame Angela	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete
Mullane, Margaret	

Question accordingly negatived.

New Clause 26

AGE ASSESSMENTS: USE OF SCIENTIFIC METHODS

"The Secretary of State must, within six months of the passing of this Act, lay before Parliament—

(a) a statutory instrument containing regulations under section 52 of the Nationality and Borders Act 2022 specifying scientific methods that may be used for the purposes of age assessments, and

(b) a statutory instrument containing regulations under section 58 of the Illegal Migration Act 2023 making provision about refusal to consent to scientific methods for age assessments."—*(Matt Vickers.)*

This new clause would require the Secretary of State to make regulations to specify scientific methods for assessing a person's age and to disapply the requirement for consent for scientific methods to be used.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss

New clause 43—*Age determination by the Home Office*—

"(1) A person who claims to be a child must not be treated as an adult by the Home Office for the purpose of immigration control.

(2) Subsection (1) does not apply where—

(a) the Secretary of State has determined that the circumstances are exceptional, or

(b) a local authority has determined that the person is an adult following a Merton-compliant age assessment.

(3) An age assessment must be undertaken by a social worker who has undertaken training on the conduct of age assessments.

(4) The Home Office must retain a record of the methodology and outcome for each age assessment undertaken for the purpose of immigration control.

(5) The Secretary of State must, through regulations made by statutory instrument, establish a framework for independent oversight of the conduct of age assessments.

(6) A statutory instrument containing regulations under this Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(7) Where a person claiming to be a child is determined by the Home Office to be an adult and is placed in adult accommodation or detention, the Home Office must notify the relevant local authority as soon as possible."

This new clause would ensure individuals claiming to be children are not treated as adults, except in exceptional circumstances or following a Merton-compliant age assessment. It would provide independent oversight of the age assessment process, and notification to local authorities when a person is placed in adult accommodation or detention.

Matt Vickers: The Bill repeals sections 57 and 58 of the Illegal Migration Act, which concern scientific age assessment methods. The Conservative party completely disagree with that decision. Every European country apart from ours uses scientific age assessment techniques such as an x-ray of the wrist, although there are other methods. More than 50% of those claiming to be children were found to be adults after an age assessment in the quarter before the election. Without a scientific age assessment method, it is very hard to determine their age. There have been cases of men in their mid-20s ending up in schools with teenage girls, and that carries obvious safeguarding risks. We have tabled the new clause to ensure that scientific methods for assessing a person's age are used, and to disapply the requirement for consent for these methods to be used.

Tom Hayes: With regard to migrants' diet before they come to the UK, can the hon. Member tell us whether he expects them to have or to lack normal calcium?

Matt Vickers: We have said that there are several methods. If we are unhappy with one, we can use alternatives. This is something that British taxpayers want to see. They want to ensure that our classrooms and social care settings are safe.

Mike Tapp: What are the other methods, and how accurate are they?

Matt Vickers: There are a raft of methods. I am happy to be directed, but every country in the EU uses the method I have mentioned. It is tried and tested. It is easy to criticise, question and find holes in a plethora of methods, but I think this is the right thing to do.

Mike Tapp: What are the other methods, and how accurate are they?

Matt Vickers: We can debate the methods at length, I am sure, but I think we have a responsibility to have a method. The fact that the rest of Europe is doing it means it is something we should be doing.

Tom Hayes: The rest of Europe is doing free trade, but the shadow Minister does not want to do that. We should reflect on Europe and what we want to import into our country.

On the bone age assessment, can the hon. Gentleman tell us with confidence grounded in science that it would be able to determine the range of relevant ages? Can he tell me what the margin of error would be for someone aged 18 or 19, and what an assessment of bone density and bone age would tell us if they posed as 15 or 16?

Matt Vickers: I can tell the hon. Gentleman that these age assessments could go some way to ensuring that a 20 or 30-year-old does not end up in a classroom beside a teenage girl. There is an opportunity to provide a power that can be used, along with all the knowledge that the agencies have, to make an assessment. The science can be determined, and the agencies can look at it in the round. We know that people have turned up without any form of identification. This is an opportunity to draw a line in the sand. Where agencies think this is the right thing to do, they can use the power. Of course, they will use it in moderation and in the context of the question marks around any method that they would use to assess age.

10.30 am

Mike Tapp: How safe would be the procedures that the hon. Gentleman is not telling us the names of to detect whether somebody is a child or an adult? How safe would they be, particularly if the person turned out to be a child?

Matt Vickers: I would trust our agencies to use them in context and apply all the other things that they might apply in any given context. This would be another tool that agencies could use, on top of all the knowledge that they might have of people coming in and what their ages might be. This is an opportunity to give our agencies another tool, and it is the right thing to do.

That is why we tabled new clause 26, which would ensure that scientific methods for assessing a person's age are used, while disapplying the requirement for consent for these methods to be used. That would ensure that adults could not claim to be children. It also gives the Government an opportunity to undo the mistake of repealing the relevant sections of the Illegal Migration Act and allow age assessments for those claiming to be children.

Becky Gittins (Clwyd East) (Lab): It is a privilege to serve under your chairpersonship, Dr Murrison. Given that the hon. Gentleman's concern is about children, we should recall the evidence session in which we heard the Children's Commissioner's concern that spending extended periods of time in asylum hotels leaves unaccompanied asylum-seeking children vulnerable to organised crime, notwithstanding the mix of ages in those hotels. Why does he still stand by the Illegal Migration Act and the Safety of Rwanda (Asylum and Immigration) Act 2024, when they are part of the reason why those children were in asylum hotels for so long?

Matt Vickers: I will stick to the new clause and the age assessments. This is a tool. It would not be used unabated. It is another tool that our agencies could use alongside whatever other assessments they might make. We would be giving them the opportunity to require people to undergo an assessment, and that is a good thing. That is why the rest of Europe is doing it. The agencies and experts—the professionals on the frontline dealing with these very troubling, difficult cases—should have all the tools they could possibly require to handle them. I see no reason why we would prevent them from doing so.

Tom Hayes: I appreciate the hon. Gentleman's desire for our frontline staff to have all the tools they need. The Bill will expand the number of tools, but those are the tools that frontline staff are requesting. We could have scientific age assessments, and the Government are certainly not ruling them out entirely; there is work going on in the Home Office to consider their efficacy. Does he agree that we need tools that will help our frontline staff achieve the goals that we set them? The Royal College of Paediatrics and Child Health says that age determination is an inexact science, and that the margin of error can sometimes be as much as five years either side. I myself am not a scientist or a member of the royal college—I assume that the same is true of the hon. Member—so is it not better that we listen to such expert bodies, and develop policy in line with them, rather than just saying, "Because Europe is doing it, we ought to do it"?

Matt Vickers: That is a safe assessment of my scientific qualifications.

We are not saying that this is the only thing that agencies and experts on the frontline, who deal with these cases day in and day out, will be able to use; it is something that they can use. If we have ended up with adults in classrooms alongside children, that is wrong. We need to give the agencies every tool in the armoury to make the situation work. This is one thing that they can use—with their knowledge and with every other assessment they would make—and it is the right thing to do.

We have talked about kicking this down the road. I think we have a commitment that the Government will do something on this issue some day, or some time. But here is an opportunity to keep the power in the legislation for agencies to use here and now, rather than in six months or a year. I am sure that the Minister will give me a timeframe on whether the Government will come back with such a power.

The SNP's new clause 43 is almost the polar opposite of our new clause. It states:

"A person who claims to be a child must not be treated as an adult by the Home Office for the purpose of immigration control."

We know that there are adults coming to this country who claim to be children. Believing them without question would make it harder to control our borders and create significant safeguarding concerns. Why does the SNP think it should be made harder for the Government to determine the true age of those entering this country illegally? How does this best serve the interests of the British people? Given the SNP's blind adoration for the European Union, we must question why they are happy for the United Kingdom, of which Scotland is a key part, to be the only European nation that does not use medical tests to determine the age of those coming to the country.

Why does this matter? The issue has not decreased in significance. The number of asylum age disputes remains high, particularly in the latest available figures. Of those about whom a dispute was raised and resolved, more than half were found to be over the age of 18. The fact that a record number of asylum seekers pretend to be children should be the wake-up call that we need to ensure that we have the checks in place to verify age and stop those who seek to deceive from entering the UK. As the available figures show, this tactic is becoming commonplace, and action must be taken to stop this abhorrent abuse.

If the figures were not evidence of the need to support new clause 26, perhaps the facts of the cases will be. A 22-year-old Afghan who had murdered two people in Serbia claimed asylum in the UK by pretending to be a 14-year-old orphan, when in fact he was 18. There is the utterly horrific case of the Parsons Green terrorist, Ahmed Hassan, who posed as a 16-year-old before setting off a bomb on a tube train in west London, injuring 23 people. Although the Iraqi's real age remains unknown, the judge who jailed him for 34 years in 2018 said he was satisfied that the bomber was between 18 and 21. The clock is ticking. The crisis is not slowing; it is surging.

In quarter 2 of 2024 alone, 2,088 age disputes landed on the desk of the Home Office. That is 2,088 claims where someone said, "Trust me, I'm a child." By the end, 757 were unmasked as adults, and the deception rate was a staggering 52%. That is not a blip, but a blazing red flag. That is more than 750 grown men, and potentially dozens more uncaught, slipping through a system that Labour has crippled by repealing the scientific age checks in the Illegal Migration Act, leaving us guessing in the dark while the numbers climb.

Dame Angela Eagle: I will deal with some of the broader points in my response, but we do age assessments. We do not simply accept—just as his Government did not—asylum seekers' claims about their age as if they were the truth. I would not like the shadow Minister to give the Committee the impression that that is happening—that we are accepting claimed ages without any kind of check. I will go into much more detail in my response to the debate about precisely what we do, but he must not give the impression that we are not checking; we are.

Matt Vickers: I hope the Minister agrees that we should be doing more, rather than less. We need to give agencies all the opportunities and powers to do so, with or without the consent of people who aim to deceive. That is the right thing to do.

If we rewind to 2022, 490 disputes in quarter 1 ballooned to 1,782 by quarter 4. Now we are at 2,088 and counting. This is not a fading headache; it is an escalating emergency. It is a conveyor belt of fraud clogging our borders and spilling into our schools. Failure to conduct these vital checks would mean that we are not just blind, but complicit in handing traffickers a playbook that says, "Send adults, call them kids and watch us flounder." The public sees it and parents feel it, and every day we delay, the risk festers. We need science, not sentiment, and we need it now.

Pete Wishart: I rise to speak to new clause 43 on age determination by the Home Office. The one thing we can agree on with the Conservative Front Benchers is that my new clause could not be more different in objective and tone than what we have heard from the shadow Minister. My new clause aims to uphold a simple yet vital principle that no child should be wrongly treated as an adult, subjected to detention or placed in inappropriate accommodation, as happens right now. The new clause would ensure that the Home Office treats as an adult an individual who claims to be a child only in exceptional circumstances or following a Merton-compliant age assessment conducted by local authority social workers. Furthermore, any decision to treat a young person as an adult would have to be made by an appropriately trained official, with reasons recorded and subject to independent oversight. Where such a decision results in the person being placed in adult accommodation or detention, the relevant local authority would have to be notified immediately.

Labour Members are right to have a go at the shadow Minister, but it is imperative that we get this right. This is life-determining and life-shaping for the individuals at the sharp end of these age assessments. The consequences of flawed age assessments at our borders are severe.

Recent data reveals that between January and June 2024 alone, at least 262 children were wrongly assessed as adults and placed in adult accommodation or detention, exposing them to significant safeguarding risks including exploitation, violence and even criminal prosecution. It is worth noting that in many cases, those children endure months of uncertainty before being correctly identified and moved into appropriate care settings. Such errors not only violate child protection principles but undermine the credibility of our asylum system.

The current process of visual assessment, often conducted at the border by immigration officers, is wholly inadequate. Assessments based solely on appearance and demeanour are inherently flawed and have led to serious misjudgments. International and domestic guidance is clear that age assessments should be undertaken only when necessary and should be conducted using holistic, multidisciplinary approaches, yet that is far from the reality.

Concerns about visual assessments have been raised not just by non-governmental organisations, but by the independent chief inspector of borders and immigration, the Children's Commissioner, parliamentary Committees and the UN Committee on the Rights of the Child. In response to those great concerns, the Government have argued that they are improving the age assessment process through the national age assessment board, and by introducing scientific methods of assessing age—we are back to that debate again. It is important to note that neither of those initiatives has any impact on visual assessments made by officials at the border. Biological methods such as dental X-rays and bone age assessment remain highly unreliable, as medical and scientific bodies repeatedly state. I listened to the hon. Member for Stockton West make great play of saying that that is what all of Europe does, but there are countless cases that the EU and other European nations have got wrong. I can send them to him; he can spend most of the day looking at them. They get cases wrong, just as we do with visual assessments.

It is right that in this Bill the Government seek to repeal clause 58 of the Illegal Migration Act, which would have meant that children who refuse to undergo these invasive and questionable procedures are presumed to be adults by default—an approach that runs contrary to any safeguarding principles. The previous Government attempted to justify that policy by highlighting the risk of adults falsely claiming to be children to access benefits and services designed for minors. However, the reality is that the greater danger lies in the wrongful treatment of children as adults, which places them in unsafe environments, denies them their rights and can have devastating long-term consequences. The number of children found to have been misclassified as adults outweighs the number of cases where an adult has falsely claimed to be a child, so we have the balance totally wrong.

Crucially, there are greater risks and consequences to placing a child among adults, where there are no safeguards in place, than to placing a young adult in local authority care. It is essential that we restore local authority-led age assessments as a primary mechanism for resolving age disputes. As child protection professionals, local authority social workers are best placed to conduct those assessments in a manner that is thorough, fair and in the child's best interests. The new clause would ensure that young people who assert that they are children are treated as such unless and until a proper assessment proves otherwise. It also guarantees transparency, independent oversight and accountability in decision making, thereby restoring trust in the system.

10.45 am

This is not an immigration issue—it is nothing to do with immigration. It is a safeguarding issue, and it is about making sure that we have the best interests of children at heart. It is an opportunity to uphold our commitment to child welfare and to ensure that the UK meets its obligations under domestic and international child protection frameworks. I urge hon. Members to support the new clause and ensure that no child seeking refuge in this country is wrongly treated as an adult and then placed in harm's way.

Katie Lam: On 23 January 2023, Lawangeen Abdulrahimzai was sentenced to life imprisonment at Salisbury Crown court. Nearly a year earlier, Abdulrahimzai had murdered 21-year-old Thomas Roberts in Bournemouth town centre by stabbing him to death in the street following a dispute over an e-scooter.

Abdulrahimzai was an Afghan asylum seeker who came to this country in December 2019. He entered the UK illegally, claiming to be an unaccompanied 14-year-old. He was placed in school and in foster care, but he was in fact already an adult when he came here. Not only was he an adult, but he was also a murderer, having killed

[Katie Lam]

two men in Serbia before coming to the UK. He should never have been allowed to come to this country and he should certainly not have been allowed to masquerade as a child.

Assessing a person's age is surprisingly difficult, but we have a range of tools to do so—the Home Office is just not using them. If we had acted sooner, using the full suite of tools at our disposal to assess Abdulrahimzai's age, Thomas Roberts might still be alive today. The case of Lawangeen Abdulrahimzai is particularly shocking, but it is unfortunately far from unique.

Chris Murray: I wonder whether there have been any new scientific discoveries in the last seven months for identifying someone's age that the Home Office would not have been aware of over the last 14 years. Is it not the case that the methodologies used are very imprecise and do not often actually lead us, in the liminal cases, to draw the distinction that the hon. Lady is advocating for?

Katie Lam: I will come on to precision and the ways of determining age slightly later in my remarks.

Ahmed Hassan, an Iraqi asylum seeker, claimed to be a 16-year-old when he arrived in the UK. In 2017, he set off a bomb at Parsons Green tube station, injuring 23 people. His real age is still not a matter of public record. In 2018, a Home Office probe found that Siavash Shah, an Iranian asylum seeker, spent six weeks as a year 11 pupil in Ipswich despite being 25—the list goes on. In fact, between 2020 and 2023, the Home Office identified almost 4,000 cases of adult migrants claiming to be children—45% of those who originally claimed to be children when they arrived here—and every other person of that cohort was in fact an adult. Some were at least 30 years old. That puts British children at risk, puts genuine child asylum seekers at risk and takes valuable school and care places away from the young people who genuinely need them.

I feel this particularly keenly as a Member of Parliament for Kent, the county into which all small boats arrive. Our laws mandate that the people who come to this country illegally and claim to be under 18 must be prioritised for care equally with Kentish children. That puts enormous pressure on the system and makes it harder for our children to be cared for. That is madness when we know that half of those arrivals are in fact adults, and we must put a stop to it.

It is completely rational, albeit morally wrong, for adult migrants to claim to be children. Under-18s who come here have a greater entitlement to care and support, do not have to live in accommodation with adults, and are not subject to the same rules as adults—or the rules are applied less strictly. Of course, there are people who cross the channel without their parents who are under 18; most, though not all, are male 17 and 16-year-olds, and some are younger children. No one disputes that, and children should be treated as children, but we must be realistic about the scandalous degree to which our system is exploited by the cynical and the sinister.

We have to protect actual children, and we should use every tool in the box to do so, including scientific testing. Where people refuse such tests, the Government should be able to override that refusal. We are acting in the interests of public safety and to protect the security of our children. Labour Members have asked for exact details of the scientific methods. As my hon. Friend the Member for Stockton West set out, there are many methods and several different ways of doing it. The ones that can be implemented in short order are the dental and skeletal tests.

Other methods are currently at an earlier stage of development, such as facial age estimation and DNA methylation, which is a process by which people much cleverer than me can assess how a person's genes are read by their body, which changes with age. In 2022, the interim Age Estimation Science Advisory Committee stated that the

> "teeth, clavicle, and hand/wrist or knee… have been shown to have a significant research and publication credibility and provide a consistent age range over which changes occur."

Later, the same report states:

> "The committee has relied on areas and methods that have been repeatedly tried and tested and shown to have consistency."

As the report makes clear, and as Government Members have said, scientific age assessment is not perfectly precise and is not magic, but as my hon. Friend the Member for Stockton West also correctly says, our proposal is that scientific age assessments should be used not to replace other methods and judgments, but to supplement them.

The situations that my hon. Friend and I have set out are horrifying. We can see no reason why the Government would not want to have the widest possible set of tools available to them to stop such things happening, including the option in future to bring in scientific methods that are currently at a nascent stage.

Tom Hayes: I thank the hon. Member for Weald of Kent for raising the absolutely horrific and awful circumstances involving Thomas Roberts, who would have been my constituent and whose mother, Dolores, is my constituent. She is racked by grief and unable to sleep at night. Her health has worsened because, as she said to the Minister and me last night in the Minister's office, with her son being murdered, she feels that half of her whole life has completely disappeared.

I do not want to name the murderer in this debate; I name Thomas Roberts, the victim. I want to talk briefly, with your permission, Dr Murrison, about Thomas Roberts, because it is important for the Committee to know who he was. It is important for Dolores, so racked with grief, to know that her MP and the Committee are focused on what happened.

Thomas was 21 years of age when he died on 12 March 2022 in Bournemouth town centre, the victim of a stabbing by an asylum seeker. His mum has told me several times, and she told me again with the Minister last night, that Thomas was known by everyone and, when his mother wanted to go into town, to Littledown or to other parts of the constituency, he would say no, because he was so well known and he did not want to be seen by his friends out with his mum.

Thomas was an aspiring Royal Marine and, in order to become one, he was in the Sea Scouts. He was physically fit—so fit, in fact, that he would actually bench press his mum and his brother. Dolores told me that the passing of his driving test on the first go was

one of her proudest moments. It is one of the things that she remembers so fondly and so closely now, as she comes to terms with her grief.

Thomas was also an aspiring drum and bass DJ, and by all accounts a very good one, who was up and coming on the south coast. If he had not made it as a Royal Marine—there was every certainty that he would—he could easily have taken up a drum and bass DJ career. He was a member of the Christchurch boxing club. He was active in his community, and deeply loving and caring about his family.

Thomas lost his life—or rather, his life was taken from him—because an asylum seeker was in our country. That begs the question: why was that person in our country? Why were they able to wield the knife that cut short Thomas Roberts's life, and that took away all the hopes and ambitions that his mother had for him? It is because we did not have access to the necessary database to track criminality and find out more about who the asylum seeker actually was. I am deeply sad that Thomas is not with his mum, in his community, or with his friends who loved him so much, because the last Government broke our asylum and immigration system, and created the conditions for that tragic killing and other tragic killings that have happened in our country.

Scientific age assessment, as the hon. Member for Weald of Kent said, is not a magic wand; it is imprecise, as we heard from the Royal College of Paediatrics and Child Health. We know what works, and that having a functioning asylum and immigration system will make all the difference. I just wish we had had that on 12 March 2022 when Thomas was denied his life opportunities because of the breakages in that system.

I thank the Minister for meeting Dolores yesterday—I know that that provided her with much-needed comfort and clarity. I am absolutely confident that the Bill and its measures will make the difference that is so needed to protect our society. I also note the contribution of Councillor Joe Salmon of Bournemouth, Christchurch and Poole council, who has been such a support to Dolores and her wider community, because she will be grieving for a very long time. It is incumbent on all of us in public service to speak the truth, look at the facts and bring forward the measures that will make the biggest difference.

If I may, I will return to the question of scientific age assessments. I referred to the concerns of the Royal College of Paediatrics and Child Health and of experts, but I now refer to the House of Lords debate on 27 November 2023, which is worth a read if Opposition Members have not had a chance. It goes into significant detail and depth about the concerns that I had about that as a possible policy at that stage of its development.

The Minister has been clear that scientific age assessments are not off the table; there just needs to be certainty that they are an effective tool. To avoid any further deaths and injustices, we need to have the right tools to protect the people of this country, secure and protect our borders, and make sure that we are truly able to restore confidence and trust in this system and in our ability to manage who comes into our country and who stays here.

Becky Gittins: I thank my hon. Friend the Member for Bournemouth East and the hon. Member for Weald of Kent for playing a respectful part in quite a heated discussion, which has done honour to Dolores and her family at an incredibly difficult time. It is really poignant that such case studies are discussed in these debates; they show what can happen on the limited and rare occasions that things go incredibly wrong with such systems. It is worthwhile that we have these discussions.

I must say that I was disappointed by Opposition Members' contributions in support of the new clause, however, because although they successfully focused on occasions where things have gone wrong, they were limited on detail. I was also disappointed by their inability to answer the question of my hon. Friend the Member for Edinburgh East and Musselburgh. We need that detail, and we need to understand how that would be different from the tools in the Home Office's arsenal during the 14 years of their Government.

11 am

When we are discussing new clauses that could be added to the Bill, that level of indecision is also concerning. The new clause's inclusion would render the Bill unachievable and potentially undeliverable. If we want to see an example of putting unworkable things into Bills, we need just to look to the Illegal Migration Act 2023 and how that ended up being defunct. I do not propose to make big political points about that, because I do not need to: the previous Conservative Government made those themselves in their failure to commence or implement much of the Act. The House agreed to 34 major clauses that were never commenced because Ministers knew that they would not work. A further 16 clauses were commenced but never operationalised because they were simply unworkable.

We should be considering what the Bill is about. I remind the Committee that the Bill is about action, and we need to ensure that what comes out of Committee is a workable and operable Bill that will do the hard work to tackle the criminal gangs that are fuelling illegal immigration, and to fix our broken asylum system.

Katie Lam: It was a privilege to hear about Thomas Roberts's life. The hon. Member for Bournemouth East did himself great credit in telling us about him so movingly. Thomas's mother, Dolores, whose pain is impossible for us to imagine, has also done his memory great credit by finding a way in her grief to talk about her son to her Member of Parliament and to the Minister.

Securing the border is a genuinely difficult job, and the Opposition are genuine in our desire to support the Government in doing that. We really believe that the new clause would help the Government to expand their ability to do that job. We deeply hope that they will consider it. I also thank the hon. Member for Clwyd East for her generous words.

Dame Angela Eagle: I start by endorsing what my hon. Friend the Member for Bournemouth East said about Dolores, Thomas Roberts's mum, whom I met last night. She has gone through a searingly awful life experience. It is difficult even to think about that, let alone to offer any comfort. Unfortunately, I do not think that her experience would have changed much had scientific age assessment been in place, although the person in question had been assessed by his local

[Dame Angela Eagle]

authority as a child and was therefore in a separate environment from that which he would have been in had he not been assessed.

I am determined to see whether we can connect up our information about people coming from Europe, following Brexit and the disintegration of our access to Eurodac and various other pieces of information collected in Europe on asylum seekers and those arriving illegally—not all of them are asylum seekers. Reconnecting, if possible, to those databases would give us more comfort than we have at the moment. However, I emphasise that when people come to this country, we do check them against all our biometric records and the terrorism lists and watch lists that we have. It may be possible for us to do more in future.

We have had a debate about new clause 26 from the Opposition and new clause 43 from the hon. Member for Perth and Kinross-shire on behalf of the Scottish National party. That has again demonstrated the wide range of opinion that there is at both ends of the argument whenever we consider such issues. I will deal with both arguments in my response, and I hope to find a middle way.

First, repealing section 58 of the Illegal Migration Act, which the Bill seeks to do, does not stop our capacity to do age assessments. Listening to some of the contributions from members of the official Opposition, one would have thought that repealing section 58 will take off the table—completely and utterly—all age assessment. That is simply not true. The age assessments in section 58 were about the duty to remove somebody to Rwanda; they were not connected to anything else. As I understand it, the issue with that legislation was that the then Government's intention was not to remove children to Rwanda, so it became more important to have a way of assessing whether somebody was a child. The Safety of Rwanda Act and the IMA—the previous Government's approach to this issue—would have created even bigger incentives for people to claim that that they were children, because they would have avoided being sent to Rwanda, not that anyone ever actually ended up there. The previous Government's approach of deportation permanently to Rwanda actually created even more incentives for people to lie about their age.

The fact is that there are people who are genuine asylum seekers who are children, people who are not genuine asylum seekers who are adults who claim to be children, and children who sometimes claim that they are adults. When that happens, one has to look at modern slavery issues and coercive control. There are safeguarding issues on both sides of the age assessment argument. Children pretend to be adults for reasons that we can imagine, but we will not go into those, because they are not very pleasant. There are also incentives created by the way in which the Children Act 1989 deals with unaccompanied asylum-seeking children. As a Kent MP, the hon. Member for Weald of Kent knows exactly what happens with the Kent intake unit and the pressure that her own local authority has been put under. However, she also knows about the Government support that her local authority has been given to disperse unaccompanied asylum-seeking children around the rest of the country so that some of the burden can be shared.

We are dealing with people who arrive without papers. Some of them wish to lie about their age, and some have been told to lie because the people-smuggling gangs perceive it as a way for people to access more resources than they could if they were seen as adults. As the hon. Member for Perth and Kinross-shire pointed out, the system can get it wrong on both sides. People who are children have been judged to be adults and put in inappropriate places, and people who are adults have been judged to be children and put in appropriate places. There is no guaranteed scientific way of making a judgment. We can make judgments about people who are much older, but we are dealing with that uncertain four to five-year range on either side, which is the difference between 18 and 24 or 17 and 23; you will know about that, Dr Murrison, from your work as a medical doctor.

On new clause 26, I want to reassure Opposition Members that there is already provision in law for the use of age assessment, and our repealing of section 58 of the Illegal Migration Act does not remove that provision. That is because the Immigration (Age Assessments) Regulations 2024, which followed scientific advice from the Age Estimation Science Advisory Committee in the Home Office, specify for the purposes of section 52 of the Nationality and Borders Act 2022 the scientific methods currently recommended for age assessment. We have retained those bits of legislation; neither the 2024 regulations nor section 52 of the Nationality and Borders Act have been repealed by the Bill, so the capacity to use scientific age assessments remains on the statute book.

The hon. Member for Stockton West did not seem to know which age assessment methods we were talking about. The 2024 regulations specify the power to use X-rays and MRIs, and that it is possible to take a negative view of the credibility of a person who refuses to consent, where there are no reasonable grounds for refusing that consent.

With those measures on the statute book, the Government continue to explore methods to improve the robustness of age assessment processes by increasing the reliability of the scientific methods being used. At the moment, we do not have enough certainty about the gap that exists in the current assessments, which are still being assessed. The hon. Member for Stockton West and the Conservative party put these things on to the statute book but then did not operationalise them. At the moment, we are doing as much work as we can to see how reliable they are, with a view to operationalising them. But as I wrote in a response to shadow Home Secretary, the right hon. Member for Croydon South, when he wrote to me about this issue, we are in the middle of that process. I hope that we will soon be in a situation to make announcements one way or the other, and those announcements will be made in the usual way.

Matt Vickers: New clause 26 does not specify the method to be used; it commits the Government to coming back within six months with a statutory instrument. How long does the Minister think it will be before the Government are in a position to do that? Is it six months' worth of people coming here without our having the ability to assess them without their consent

using these methods? Is it a year? Is it 18 months? How long does she think it will be before we are in a position to make these decisions?

Dame Angela Eagle: We are making a scientific assessment of how accurate and effective the methods are that could be used to make age assessments, and I hope to have some results from that work soon. What I do not want is to have a clause in primary legislation telling me that I have to do that by a set time.

I am trying to reassure the hon. Gentleman that despite the repeal of section 58 of the Illegal Migration Act, which this Bill brings about, the capacity to do age assessments and apply them scientifically is still on the statute book. We are looking closely into how we can operationalise these methods if we feel they will give us a more trustworthy result, but we will not do that if we do not. We are in the middle of getting to the stage where we can make that judgment.

I will also address new clause 43, which says that we should not use age assessments at all, other than in exceptional circumstances. Given what the hon. Member for Perth and Kinross-shire said when he moved it, I think it accepts that we should continue with Merton assessments, which are the other way of dealing with age assessments currently. Those usually involve two social workers and various other experts interviewing the person concerned to try to get a handle on their real age.

11.15 am

However, new clause 43 would remove Home Office immigration officers' ability to conduct initial decisions on age at the border. Those important powers enable us to try to get the system working as well as possible at Western Jet Foil and Manston if people arrive undocumented on small boats. The initial decision on age is used as an important first step to prevent individuals who are clearly an adult or a child from being subjected unnecessarily to a more substantive age assessment and to ensure that individuals are routed to the correct adult or child immigration process—and they do differ, as we have discussed this morning. If there is doubt following the initial decision on age, individuals are referred for further consideration of their age.

The new clause would mean that even those who were very obviously adults would need to be referred into local authority care for an age assessment, placing burdens on already stretched local authorities and causing significant safeguarding risks as a result of adults having access, alongside genuine children, to children's services, including accommodation and education.

Merton assessments do not happen overnight. They take time to organise, and in some ways have been so slow that the previous Government created the national age assessment board, which is a decision-making body of Home Office social workers who can conduct Merton-compliant assessments centrally. The national age assessment board, which launched in March 2023 and has now been made available nationally, continues to offer significant improvements to our processes for assessing age. It currently employs over 50 social workers, with recruitment ongoing to increase capacity and expertise in the system. I can assure all hon. Members that national age assessment board social workers are required to engage in a comprehensive training programme, regardless of their previous experience. Successful completion allows them to become designated and to conduct Merton-compliant age assessments on behalf of the national board.

Subsection (5) of new clause 43 would require the Home Office to establish through regulations a new independent review framework to oversee age assessments. Although there is no review body that inspects local authority decisions on age, I cannot see the merits of setting up a new review framework for the Home Office when age assessment already falls within the remit of the independent chief inspector of borders and immigration. The ICIBI has recently conducted an investigation on age assessment, and I look forward to seeing the report and its findings, which will be published in due course. The capacity to oversee age assessments and how they are conducted therefore already exists.

Lastly, the new clause would require the Home Office automatically to notify local authorities where an individual is claiming to be a child and in adult accommodation, even where they have already been assessed to be an adult by the Home Office, and that would include individuals who have been assessed to be significantly over 18. I can assure the Committee that where Home Office or accommodation provider staff have concerns that an individual might be a child, it is standard practice for a local authority referral to be raised. Even where a referral is not made by the Home Office service providers to the local authority, that does not prevent them from approaching a local authority for further consideration of the person's age. So a lot of the issues are covered, and the new clause would make it harder, paradoxically, for us to try to get this right.

Matt Vickers: I welcome the fact that the Government will come back with scientific age assessments that also do not require consent. But if six months is too long, at what point would the Minister expect to be concerned? If we have not been applying these assessments and we have ended up with the wrong people in the wrong classrooms for years, at what point should we be concerned? If six months is too soon, is it 18 months?

Dame Angela Eagle: The hon. Gentleman is being a bit mischievous. We are in the middle of an assessment of whether scientific age assessments work and at what level of capacity and detail we can trust them. I expect reports fairly soon, and once I have them I can make a decision on how we go ahead with them. I will let Parliament know in the usual way when that has happened, but it is not useful or effective to have the hon. Gentleman's new clause setting a deadline for that in the Bill. I hope he will accept that in the helpful way in which I intend it. We are not in disagreement on principles, but if we are going to use scientific age assessment, we need to ensure that it is as effective and useful as possible, so that it can be taken seriously and play an effective part in the battle that all of us want to be involved in: ensuring that children do not end up in adult settings and adults do not end up in children's settings.

Matt Vickers: People who arrive here deceptively claiming to be children cannot be allowed to succeed. We should make use of the best scientific age assessment methods available to us, with or without consent. Those

[Matt Vickers]

will not be used in isolation, but alongside all the other possible assessment methods available to us. We can debate the science all day. The new clause would require the Secretary of State to define those methods within six months through a statutory instrument, using expert advice to do so. One deceptive adult migrant in a classroom or care setting alongside children or vulnerable youngsters is one too many. Giving our agencies the ability to use the best scientific methods available to them to assess age without consent can further their ability to protect children. I would therefore like to press new clause 26 to a Division.

Pete Wishart: I am grateful to the Minister for her response to my new clause 43, but a lot of what she claims is in it is not actually there—I hope she accepts that. Those of us who visit asylum seekers in our constituencies will recognise that the determination is probably the most contentious issue that asylum seekers bring to us; it is the thing that perplexes and concerns them the most. They are very sensitive to it being done wrong, and it gets done wrong in both directions, as the Minister said.

The number of children found to have been misclassified as adults outweighs quite significantly the number of cases where an asylum seeker has falsely claimed to be a child. Everybody is right that there is no scientific or other method to determine age that is 100% effective—visual assessments certainly are not. Surely, however, the people who are best qualified to make these assessments are people who work with children—whose main business is to make these sorts of judgments about children. That is why we have asked for Merton-compliant age assessments, so that an holistic view is taken of the individual and they are assessed properly by social workers trained to work with children. Surely that is the most effective means to determine these things.

I am not saying that we should not use other things, but where the issue is in dispute—perhaps I should have included that in my new clause; clearly, the people sitting in this Committee could not be classified as children—we must get it right. That is so important as we go forward. It is life-changing, dangerous and damaging to be misclassified. As I said in my initial contribution, this is not an immigration issue, but a safeguarding issue. We must get it right. That is why I will press my new clause to a vote as well.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 22]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

Ordered, That further consideration be now adjourned. *—(Martin McCluskey.)*

11.25 am

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

BORDER SECURITY, ASYLUM AND IMMIGRATION BILL

Twelfth Sitting

Tuesday 18 March 2025

(Afternoon)

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

not later than

Saturday 22 March 2025

The Committee consisted of the following Members:

Chairs: Dawn Butler, Dame Siobhain McDonagh, † Dr Andrew Murrison, Graham Stuart

Bool, Sarah *(South Northamptonshire)* (Con)
† Botterill, Jade *(Ossett and Denby Dale)* (Lab)
† Eagle, Dame Angela *(Minister for Border Security and Asylum)*
† Forster, Mr Will *(Woking)* (LD)
† Gittins, Becky *(Clwyd East)* (Lab)
† Hayes, Tom *(Bournemouth East)* (Lab)
† Lam, Katie *(Weald of Kent)* (Con)
† McCluskey, Martin *(Inverclyde and Renfrewshire West)* (Lab)
† Malhotra, Seema *(Parliamentary Under-Secretary of State for the Home Department)*
† Mullane, Margaret *(Dagenham and Rainham)* (Lab)
† Murray, Chris *(Edinburgh East and Musselburgh)* (Lab)
† Murray, Susan *(Mid Dunbartonshire)* (LD)
† Stevenson, Kenneth *(Airdrie and Shotts)* (Lab)
† Tapp, Mike *(Dover and Deal)* (Lab)
† Vickers, Matt *(Stockton West)* (Con)
† White, Jo *(Bassetlaw)* (Lab)
† Wishart, Pete *(Perth and Kinross-shire)* (SNP)

Robert Cope, Harriet Deane, Claire Cozens, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 18 March 2025

(Afternoon)

[Dr Andrew Murrison *in the Chair*]

Border Security, Asylum and Immigration Bill

2 pm

New Clause 27

Repeal of certain provisions of the Nationality and Borders Act 2022

'The following provisions of the Nationality and Borders Act 2022 are repealed—

(a) sections 12 to 65; and

(b) sections 68 and 69.'—*(Susan Murray.)*

This new clause would repeal specified provisions of the Nationality and Borders Act 2022.

Brought up, and read the First time.

Susan Murray (Mid Dunbartonshire) (LD): I beg to move, that the clause be read a Second time.

It is a pleasure to work under your chairmanship, Dr Murrison. The new clause would enable replacements of large portions of the Nationality and Borders Act 2022—in particular, sections on asylum, immigration control, age assessments and modern slavery—to ensure the upholding of the refugee convention, to provide for safe and legal routes to sanctuary for refugees and to help prevent dangerous channel crossings.

Matt Vickers (Stockton West) (Con): Liberal Democrat new clause 27 seeks to repeal provisions in the Nationality and Borders Act 2022 passed by the previous Conservative Government. By attempting to repeal section 29 of the Act, the Liberal Democrats are seeking to prevent the Government from removing people, including criminals, to a safe third country.

Rewind back to 2022 when 45,000 people crammed into small boats, flimsy rafts teetering on the channel's unforgiving waves—a swarm, spurred by the hope of slipping through our borders, hammering coastal towns and stretching security to its limits.

The Minister for Border Security and Asylum (Dame Angela Eagle): Did the hon. Gentleman really mean "swarm" in that context? That is quite emotive language.

Matt Vickers: Well, hot air is required in this room this afternoon, and I intend to provide it.

We fought back with the Nationality and Borders Act third-country removals, which helped the Government to deter crossings by 36% in 2023 from 45,000 to under 29,000—not by chance, but by design, sending a message to traffickers and migrants alike that Britain is no soft touch or guaranteed prize. Now, the Liberal Democrats barge in with new clause 27, desperate to repeal section 29 to shred that deterrent and plunge us back into chaos, flinging the channel wide open not just to the weary but to every chancer or criminal. That is not tweaking policy; it is torching a firewall, inviting all those to Dover's cliffs and Deal's shores and erasing every inch of progress that we have clawed from the crisis. The Lib Dems owe us hard answers. How many boats—50,000 or 60,000?

The Albania deal delivered a masterstroke of border control. That pragmatic triumph has turned a torrent of illegal crossings into a trickle through sheer diplomatic grit. Back in 2022, Albanians dominated the small boats surge. A 12,000-strong, relentless wave of young men were lured by traffickers with promises of easy UK entry for £3,000, clogging Dover's processing centres and fuelling tabloid headlines of chaos. Then came our 2023 pact with Tirana—a no-nonsense agreement that flipped the script with fast-track returns, joint police operations and a clear signal: Albania is safe and you are going back.

By 2024, the results were staggering. Weekly flights were whisking deportees home, with each jet a nail in the coffin of the smuggling networks that once thrived on our porous borders. That was not luck or loud threats but cold, hard execution, bolstered by UK-funded cameras on the Albania-Kosovo frontier and Albanian officers embedded in Dover.

Chris Murray (Edinburgh East and Musselburgh) (Lab): I think that the hon. Gentleman is somewhat overstating the impact of the Albania policy. After the initial agreement was signed, we saw a massive spike in numbers coming from Albania, and the numbers had already started to fall before the communiqué was signed. The correlation and causation arguments that he is making on the Albania scheme do not add up at all.

Matt Vickers: What is effective? The deal reduced the number of people coming from Albania by more than 90%. If we could get a few more agreements like that, we would be on the way—that would be huge progress. The Albania deal represented huge progress; to suggest otherwise is wrong. It choked off routes before boats had even launched and had a real impact.

Chris Murray: Would the hon. Gentleman at least accept that the Albania returns were largely due to large numbers of foreign national offenders, who are a completely different category of people from those we are talking about in either this clause or this Bill?

Matt Vickers: We would want to return foreign national offenders; that is really positive. But the number of people choosing to cross because of that deterrent effect went down by not 10% or 20%, but by more than 90%. More than 90% fewer people arrived from Albania in small boats. That is huge progress. If we can replicate that elsewhere, I will be a very happy boy because we would see a huge impact on those crossings across the piece.

New clause 27 is hellbent on repealing that backbone, oblivious to how crossings from Albanians were successfully slashed, while the Rwanda threat kept smugglers guessing. If the Liberal Democrats prevail, every bilateral deal

will be on the chopping block. Imagine Albanian numbers roaring back to 12,000, with other current surges unchecked. That is not progress; it is sabotage—a reckless bid to unravel a system that is finally biting back at the chaos. Do the Liberal Democrats not want to be able to remove people from this country who have entered illegally? Do they believe that any national of a safe country should be able to seek asylum in the UK? Can Liberal Democrat Members explain why that would not create a massive pull factor and encourage people to cross the channel in small boats?

The Liberal Democrats are also seeking to repeal sections 15 to 17 of the Nationality and Borders Act 2022, which specify that the Secretary of State must declare an asylum claim made by a person who is a national of an EU member state inadmissible. Why would the Liberal Democrats believe that anyone from the EU needs to claim asylum here? Picture this scene, which is so utterly ridiculous that it strains the bounds of credulity: an EU citizen, perhaps some laid-back Amsterdamer, pedalling along the city's picturesque canals one sunny afternoon, tulips nodding in the breeze, then suddenly deciding to chuck it all, hop on a ferry and pitch up on Dover's pebbled shores, requesting asylum, as if the Netherlands' orderly bike lanes and windmill-dotted horizons had morphed into a scene from—

Tom Hayes (Bournemouth East) (Lab): We are witnessing some particularly theatrical prose, perhaps for the first time. Has Boris Johnson got a new job as the hon. Gentleman's speechwriter?

Matt Vickers: His writing seems to be going quite well at the moment. I do not know that I have the cash for him.

What I have described is not asylum. We cannot pretend that the EU's 27 nations and its vast tapestry of safe, stable and prosperous lands—we can take our pick of France, Italy, Spain, Sweden and so on, each a bastion of peace and plenty—somehow warrant the same desperate lifeline that we reserve for those fleeing real and genuine chaos. This is the same organisation that the Liberal Democrats supposedly want to build closer ties with. They also want the UK to grant asylum to people who come to this country having already been in a country where they have claimed and been granted asylum. Why are the Liberal Democrats encouraging people to cross the channel when they already have asylum or can claim asylum in a safe third country?

Just like the Labour Government, the Liberal Democrats want to remove sections of the Nationality and Borders Act 2022 that allow local and public authorities to conduct an age assessment on an age-disputed person. As we discussed before when the SNP did not wish those who claim to be a child to be treated as an adult, every European country apart from ours uses scientific age assessment techniques such as an X-ray of the wrist. As we have said, there are also other methods. More than 50% of those claiming to be children were found to be adults after an age assessment in the quarter before the election. Without a scientific age assessment method, it is very hard to determine age. Given the horror stories in this area, why do Liberal Democrats want to put the people of this country at risk, and blindly allow unverified people into the UK?

Let us now talk about a nightmare unfolding right under our noses: one that the Liberal Democrats seem hellbent on making worse. In the first quarter of 2021 alone, 560 adults—grown men with stubble, receding hairlines and years behind them—had the gall to pose as kids, slipping through the cracks until scientific age checks, such as wrist X-rays and dental scans that every sensible European nation uses, caught them red handed and stopped them cold.

The Lib Dems' new clause 27 would axe those checks and rip out the one tool keeping us from dumping people who are 25 years old or even older into classrooms alongside children. That is not some abstract risk. It has happened and it is real; it means men in their 20s sitting at desks meant for teens, all because we have let sentiment trump science. That would not protect children, but endanger them—a reckless gamble that would turn schools into hunting grounds and parents into nervous wrecks, all so the Lib Dems can pat themselves on the back for being compassionate. If they get their way, every classroom will have a question mark. How many 25-year-olds will slip through before the damage is done?

What do the Liberal Democrats believe should happen if the authorities believe a migrant who is claiming to be under 18 is actually an adult? Do they believe that such people should be placed in schools with schoolchildren? Again, it seems as though the Liberal Democrats want to strip the Government of any power to control who comes to the country. That would see net migration drastically increase.

The issue cuts deeper than policy, however; it is about what people expect, and the Liberal Democrats' new clause pulls hard against that grain. Voters have signalled what they want loud and clear, with 68%—nearly seven in 10—backing tougher border controls in surveys: a call echoing from Dover to Folkestone, where residents live with the reality of arrivals day by day. That is not a passing opinion; it is a steady demand—rooted in years of debate, from the 2016 Brexit vote to the 2019 landslide—for a system that prioritises their say.

Dame Angela Eagle: I do not know what the hon. Gentleman had for lunch, but perhaps we should find out and get some of it ourselves. We can then all compete with the poet laureate and the virtuoso performance that we have just heard.

I am going to talk about the new clause, however, which is in respect of the Nationality and Borders Act 2022. The hon. Member for Mid Dunbartonshire is proposing that numerous sections of the 2022 Act be repealed under the Bill.

I should start by making it clear that we are determined to restore order to the asylum system, so that it operates swiftly, firmly and fairly, and ensures that the rules are properly enforced. That is a financial necessity to deal with the backlogs that we have inherited—the permit backlog in particular, but also others, especially in the appeals space—so that the costs do not continue to mount up at the expense of the taxpayer. Getting the system moving again is an important part of what we have been doing.

Following the election, the Home Secretary acted rapidly to change the law to remove the retrospective application of the Illegal Migration Act 2023, which

[Dame Angela Eagle]

allowed decision makers to decide asylum claims from individuals who arrived in the UK from 7 March 2023. Previously, there was a ban on that, because of the duty to remove, which was never going to be sensibly put into effect.

I am not going to speak to every section of the Nationality and Borders Act, but the hon. Member for Mid Dunbartonshire wants us to repeal very large chunks of the Act under the new clause. I will mention only a few, and I hope that she will forgive me for not talking about every section.

The introduction of the national age assessment board, for example, in March 2023, relies on a piece of the Nationality and Borders Act that the hon. Lady wishes to repeal. In the interim, since that Act has come into being, we have introduced the national age assessment board and made it available across the country. It continues to offer significant improvement to our processes for assessing age, including creating greater consistency in age assessment practices, which can be very inconsistent in the practical delivery of Merton-compliant assessments in different local authorities—some are more experienced and some better at it than others. The national age assessment board creates a standard and a bar below which it is hard to go. It sets important standards in age assessment, improves quality and ensures that ages are recorded correctly for immigration purposes.

The Nationality and Borders Act also placed protections and support under the Council of Europe convention on action against trafficking in human beings on a legislative footing for the first time in the UK. That includes the right to a recovery period in the national referral mechanism, during which potential victims of modern slavery and trafficking are eligible for support and are protected from removal from the UK. The Act provides the means to disqualify individuals—I suspect that this may be the bit that the hon. Member for Mid Dunbartonshire objects to—from protections or support on the grounds of public order or bad faith. However, that is in line with article 13 of the convention; that part of the Nationality and Borders Act put the convention into UK law. I am surprised she is suggesting that we should remove it.

The Act also sets out the circumstances in which confirmed victims of slavery and trafficking may be granted temporary permission to stay in the UK. The Government will be launching a public consultation, before summer recess, on how we can improve the process of identifying victims of modern slavery. We will provide details on that consultation in due course.

2.15 pm

The Act also introduced the establishment of a clear two-limb test for assessing whether an asylum seeker has a well-founded fear of persecution and raised the standard of proof that an asylum seeker must satisfy for certain elements of the test to the higher "balance of probabilities" standard. That is helping to ensure that only those who genuinely require protection are granted it in the UK, while those who do not qualify will be removed. The Government are committed to restoring order to the asylum system, and the Bill supports our aim in ensuring that the system operates swiftly, firmly and fairly. The examples outlined demonstrate the practical benefits of keeping the Nationality and Borders Act 2022 on the statute book. It follows that I do not agree that new clause 27 should be added to the Bill.

Susan Murray: I thank the Minister for her clear outline. The Liberal Democrats want to enable the replacement of large portions of the Nationality and Borders Act and ensure that we uphold the refugee convention. We wish to push the new clause to a vote.

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

The Committee divided: Ayes 3, Noes 13.

Division No. 23]

AYES

Forster, Mr Will	Wishart, Pete
Murray, Susan	

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
Lam, Katie	Vickers, Matt
McCluskey, Martin	White, Jo
Malhotra, Seema	

Question accordingly negatived.

New Clause 29

REFUGEE FAMILY REUNION

'(1) The Secretary of State must, within 6 months of the date on which this Act is passed, lay before Parliament a statement of changes in the rules (the "immigration rules") under section 3(2) of the Immigration Act 1971 (general provisions for regulation and control) to make provision for refugee family reunion, in accordance with this section, to come into effect after 21 days.

(2) Before a statement of changes is laid under subsection (1), the Secretary of State must consult with persons as the Secretary of State deems appropriate.

(3) The statement laid under subsection (1) must set out rules providing for leave to enter and remain in the United Kingdom for family members of a person granted refugee status or humanitarian protection.

(4) In this section, "refugee status" and "humanitarian protection" have the same meaning as in the immigration rules.

(5) In this section, "family members" include—

(a) a person's parent, including adoptive parent;

(b) a person's spouse, civil partner or unmarried partner;

(c) a person's child, including adopted child, who is either—

(i) under the age of 18, or

(ii) under the age of 25 but was either under the age of 18 or unmarried at the time the person granted asylum left their country of residence to seek asylum;

(d) a person's sibling, including adoptive sibling, who is either—

(i) under the age of 18, or

(ii) under the age of 25, but was either under the age of 18 or unmarried at the time the person granted asylum left their country of residence to seek asylum; and

(e) such other persons as the Secretary of State may determine, having regard to—

(i) the importance of maintaining family unity,

(ii) the best interests of a child,

(iii) the physical, emotional, psychological or financial dependency between a person granted refugee status or humanitarian protection and another person,

(iv) any risk to the physical, emotional or psychological wellbeing of a person who was granted refugee status or humanitarian protection, including from the circumstances in which the person is living in the United Kingdom, or

(v) such other matters as the Secretary of State considers appropriate.

(6) For the purpose of subsection (5)—

(a) "adopted" and "adoptive" refer to a relationship resulting from adoption, including de facto adoption, as set out in the immigration rules;

(b) "best interests" of a child must be read in accordance with Article 3 of the 1989 UN Convention on the Rights of the Child.' —*(Susan Murray.)*

This new clause would make provision for leave to enter or remain in the UK to be granted to the family members of refugees and of people granted humanitarian protection.

Brought up, and read the First time.

Susan Murray: I beg to move, That the clause be read a Second time.

This new clause would make provision for leave to enter or remain the UK to be granted to the family members of refugees and of people granted humanitarian protection. Through the clause the Liberal Democrats seek to support refugee family reunion and to help people to integrate into the community, learn the language, make a home and work to contribute to society, exactly as the hon. Member for Edinburgh East and Musselburgh discussed.

Matt Vickers: Liberal Democrat new clause 29 requires that within six months of the date on which this Act is passed, the Secretary of State should lay before Parliament provision for leave to enter or remain in the UK to be granted to family members of people granted refugee status and of people granted humanitarian protection. In the new clause, family members include: a person's parent, including adoptive parent; their spouse, civil partner or unmarried partner; and their child or sibling, including their adopted child or adoptive sibling, who is either under 18 or under 25, having been under 18 or unmarried

"at the time the person granted asylum left their country of residence to seek asylum".

Further, it can be taken to mean

"other persons as the Secretary of State may determine, having regard to…the importance of maintaining family unity…the best interests of a child…the physical, emotional, psychological or financial dependency between a person granted refugee status or humanitarian protection and another person."

If those provisions were not already incredibly vague, the Liberal Democrats have included a proposal that other persons can be determined by the Secretary of State. That could obviously result in a huge number of spurious claims made by family members who will say that they have a dependency on another person so they must be allowed to come to the UK under the provision. We already have judges completely stretching the definition of "right to family life" under article 8 of the European convention on human rights. The Liberal Democrat clause would be subject to even more abuse.

Beyond the vagueness, new clause 29 risks piling unbearable pressure on an economy already creaking under migration's weight. Each new family member, however loosely defined, brings costs—in housing, where shortages already top 1.2 million units, in healthcare, with NHS waits stretching past 7 million, and in schools, where 9 million pupils squeeze into overstretched classrooms. The costs of supporting asylum for individuals run into the tens of thousands of pounds. Multiply that by thousands of dependants under this elastic clause, and we are staring at billions more siphoned from taxpayers, who have already seen their council tax spike. The Liberal Democrats do not set a cap; they fling the door open ever wider, ignoring how finite our resources are. Britain's compassion has no bounds, but its resources certainly do. Our generosity must have limits. New clause 29 pretends otherwise, and working families will foot the bill when the system groans under the strain.

The new clause does not just invite claims; it opens a legal floodgate that could drown our courts in precedent-setting chaos by letting the Secretary of State define "family" on a whim. Whether we are talking about emotional ties or financial need, new clause 29 hands judges a blank slate to scribble ever-wider interpretations, building on the already elastic right to family life under article 8.

We have seen what has happened. As has been mentioned, an Albanian stayed because his son disliked foreign chicken nuggets. A Pakistani offender lingered, citing harshness to his kids. Let us now imagine dozens or hundreds of cases stacking up, each further stretching dependency—cousins, in-laws, distant kins—all cementing new norms that bind future policy. The Lib Dems would not just be tweaking rules; they would be unleashing a judicial snowball that would roll over border control for years to come. "Family unity" sounds noble, but the sprawl under new clause 29 could stall integration in its tracks—a challenge we cannot ignore when one in six UK residents was born abroad. Bringing in broad swathes of dependants, potentially with limited English skills or ties, risks clustering communities inward, not outward.

If we look across the channel, we see that Germany tightened family reunification after 1.1 million arrivals, capping it at 1,000 monthly for refugees' kin, citing overload. We are not outliers for wanting clarity. Other nations prove it works, yet the Lib Dems chase a boundless model, ignoring how allies balance compassion with capacity, leaving us to pick up the pieces when this experiment fails.

The Parliamentary Under-Secretary of State for the Home Department (Seema Malhotra): The hon. Member for Mid Dunbartonshire proposes an amendment that seeks to significantly change the current refugee family reunion policy, and to expand the current eligibility to include siblings, children under the age of 25 and any undefined family member.

The Government fully support the principle of family unity and the need to have provisions under the immigration rules that enable immediate family members to be reunited in the UK when their family life has been disrupted because of conflict or persecution. Accordingly, in recognition of the fact that families can become separated because of the nature of conflict or persecution, and because of the speed or manner in which people may be forced to flee their homes, communities and country,

[Seema Malhotra]

our refugee family reunion policy is extremely important and generous. The route enables those granted a form of protection in the UK to sponsor their partner or child to come to the UK, provided that they formed part of that family unit before they sought protection. Increasing numbers of visas have been granted through this route under the current policy, and indeed under the previous Administration. In 2024, 19,710 people were granted family reunion visas—twice the number in 2023, when around 9,300 visas were granted.

On the specific proposals in the new clause, it should be noted that any expansion of the existing approach without careful thought, including where such an expansion would allow an undefined family member to be brought to the UK, could significantly increase the number of people who qualify to come here, and runs the risk of abuse of those routes. That would have an impact on the taxpayer and could result in further pressures on public services and local authorities, which may have to accommodate and support the new arrivals.

We believe that introducing a rule that allows children to sponsor their relatives would risk creating incentives for more children to be encouraged or even forced, as we know can happen, to leave their families and risk hazardous journeys to the UK across the channel in small boats. That is a serious and legitimate concern regarding the best interests of those children.

Susan Murray: I thank the Minister. It is good to hear that the Government support the principle of family reunion, but we will press the new clause to a vote.

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

The Committee divided: Ayes 3, Noes 13.

Division No. 24]

AYES

Forster, Mr Will	Wishart, Pete
Murray, Susan	

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
Lam, Katie	Vickers, Matt
McCluskey, Martin	White, Jo
Malhotra, Seema	

Question accordingly negatived.

New Clause 32

REVOCATION OF INDEFINITE LEAVE TO REMAIN IN CERTAIN CIRCUMSTANCES

"(1) Indefinite leave to remain in the United Kingdom is revoked with respect to a person ('P') if any of the following conditions apply.

(2) Condition 1 is that P is defined as a 'foreign criminal' under section 32 of the UK Borders Act 2007.

(3) Condition 2 is that P was granted indefinite leave to remain after the coming into force of this Act, but would not be eligible for indefinite leave under the requirements of section [*Qualification period for Indefinite Leave to Remain in the United Kingdom*].

(4) Condition 3 is that P, or any dependents of P, have been in receiptof any form of 'social protection' (including housing) from HM Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules.

(5) Condition 4 is that P's annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period, or subsequent to receiving indefinite leave to remain.

(6) A person who has entered the United Kingdom—

(a) under the Ukraine visa schemes;

(b) under the Afghan Citizens Resettlement Scheme;

(c) under the Afghan Relocations and Assistance Policy; or

(d) on a British National Overseas visa,

is exempt from the requirements of Condition 2, Condition 3, and Condition 4.

(7) For the purposes of subsection (5)—

(a) the condition applies only to earnings that have been lawfully reported to, or subject to withholding tax by, HM Revenue and Customs; and

(b) the relevant sum of annual income must be adjusted annually by the Secretary of State through immigration rules to reflect inflation.

(8) The Secretary of State may by immigration rules vary the conditions set out in this section."—*(Matt Vickers.)*

This new clause would revoke indefinite leave where a person is a foreign criminal, has been in receipt of benefits, earns below the national median income, or (for those granted indefinite leave after the coming into force of this Act) would not meet the requirements sought to be imposed by NC25.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

We believe that the right to remain in this country is a privilege, not a right. We also believe that to be able to stay in this country, a person must contribute to this country. As recent research by the Centre for Policy Studies has outlined, there is a risk that many of those coming to this country are either low-paid workers or have dependants who may or may not be working. Those individuals are likely to represent a long-term burden on the country's finances rather than be net contributors. That sentiment has been reiterated by liberal publications such as *The Economist*, which only last week said in one of its leaders that

"governments must also learn from the policy mistakes that lend it credibility."

Tom Hayes: It was remiss of me not to say earlier that I admire the hon. Gentleman's tie—it is very nice. On the point he raises, I have said consistently that that particular report by the Centre for Policy Studies is flawed. As we move towards the Government's new net migration White Paper, which will specify how we can bring labour into the country that is skilled only, rather than the low-wage labour that we saw under the previous Administration, there will not be that kind of burden in the future.

2.30 pm

Matt Vickers: I aim to please with my tie. The hon. Gentleman can probably attach as much importance to the policy paper as he sees fit, as he does with anything else I might or might not say; it is for him, and for

readers of the debate, to determine the value and weight they add to that. Another proposal we have put forward is on salary thresholds and what someone should be earning in order to remain in this country. I think that is a big deal; I will go on to outline why I think it is important, but yes—it is a big deal.

As I was saying, *The Economist* said only last week in one of its leaders that

"governments must also learn from the policy mistakes that lend it credibility. It was foolish to admit lots of newcomers without liberalising housing markets. Also, since migration flows to rich countries cannot be unlimited, it makes sense to favour highly skilled economic migrants over lower-skilled ones nearly all the time. Arguments for low-skilled migration built around supposed labour shortages are flawed."

Interestingly, in countries outside the UK, research has shown the importance of income in long-term migration. A report in the Netherlands, which used detailed microdata on fiscal contributions and benefits to the entire population to calculate the discounted lifetime net contribution of the immigrant population present in 2016, was published in December 2024 and concluded:

"If the parents make a strongly negative net contribution, the second generation usually lags behind considerably as well. Therefore, the adage 'it will all work out with the second generation' does not hold true. High fiscal costs of immigrants are not that much caused by high absorption of government expenditures but rather by low contributions to taxes and social security premiums. We also find evidence for a strong relationship of average net contributions by country with cultural distance, even after controlling for average education and the cito-distribution-effect."

Although we should acknowledge that the Netherlands is a different country with its own unique systems and that its situation does not necessarily apply to the UK, the finding highlights the need to examine the impact of migration decisions in comparable nations. New clause 32 takes steps to do that, ensuring that migrants contribute to our economy.

Mr Will Forster (Woking) (LD): This is a very different hon. Member for Stockton West speaking now from the one who spoke last week, when he spoke against and voted against the Liberal Democrat amendment to allow and encourage asylum seekers to work so that they could benefit our economy. Does he not remember last week? Where was his concern for the taxpayer then?

Matt Vickers: I would suggest that that is quite a creative interpretation of last week's events. This debate is about what people contribute when they are legally able to, rather than creating anything that would draw more people to make that crossing and to turn up in this country.

New clause 32 would revoke indefinite leave to remain in certain circumstances: that a person

"is defined as a 'foreign criminal' under section 32 of the UK Borders Act 2007";

that the person

"was granted indefinite leave to remain after the coming into force of this Act,"

but has not spent 10 years resident in the UK;

that the person or their dependants

"have been in receipt of any form of 'social protection'…from HM Government or a local authority";

or that the person's

"annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period, or subsequent to receiving indefinite leave to remain."

Let us be absolutely clear about one thing, because it is a cornerstone of this proposal and speaks volumes about who we are as a nation and what we stand for when the chips are down: anyone who has entered this country under the carefully crafted, well-designed and wholly principled safe and legal routes—those lifelines that we have extended through the Ukraine scheme, the British nationals overseas scheme or the Afghan schemes—would find themselves entirely exempt from the rigours of new clause 32, and rightly so. Those schemes are not just policies, but promises; they are solemn commitments that speak to our national character, and we stand by those we have pledged to protect.

Let us think of the more than 200,000 Ukrainians welcomed since 2022, fleeing Putin's bombs—families clutching what they had, offered sanctuary through the Ukraine family scheme and Homes for Ukraine.

Chris Murray: Looking at the proposals set out in this new clause, how exactly is the hon. Gentleman proposing to calculate the £38,700? Is software available in the Home Office or in His Majesty's Revenue and Customs? What if someone was found to have overpaid taxes after they were found not to meet the amount? Would the Home Office go and find them overseas and bring them back? This proposal sounds absurdly unworkable.

Matt Vickers: Lots of processes are in place, but we are putting down a principle. It is the same as the skilled worker visa threshold of £38,700. We have to set a line that requires people to be self-sufficient and not a drain on resources. This is the line that we are setting.

There are also Hongkongers. By 2025, nearly 180,000 British national overseas visa holders had escaped Beijing's iron grip—huge British talent. More than 20,000 Afghans have been resettled since the Kabul airlift. Those were the right things to do, and we would exempt them from this proposal. These are not random arrivals; they are people we invited, whose stories of sacrifice and loyalty resonate with the values that we hold dear, from duty to decency. We would not renege on those commitments and tarnish the trust that we have built.

Let us cast our eyes across the globe, because other nations are not just theorising about this; they are proving that it works, day in, day out, with systems that do not just talk a good game but deliver tangible, measurable results that we would be foolish to overlook. Take Australia, a land of vast horizons and sharper borders, whose points-based residency system does not mess around. If someone is pulling in less than 53,900 Australian dollars—£28,000—and they are dipping into welfare, Australia will show them the door, an approach that is saving taxpayers billions.

These are not quirky outliers or flukes; they are lessons carved in policy stone and shining examples that tying status to contribution is not some pie-in-the-sky dream but a practical, proven playbook that delivers real savings and sharper borders, and stands up to scrutiny. New clause 32 lifts straight from that script, making £38,700 the line in the sand, with no benefits to lean on and no criminal record to tarnish the deal. It is not radical; it is road-tested, and echoes what works elsewhere on the globe.

[Matt Vickers]

Critics might cry, "Unworkable!" but the conditions in new clause 32 are trackable. HMRC already logs income for tax. The Home Office flags criminals under the UK Borders Act 2007, and the Department for Work and Pensions tracks benefits down to the penny. We are not reinventing the wheel—just syncing data to enforce the rules, with £38,700 as a clear line, 10 years as a fair test, and exemptions for the Ukraine, Afghan and British national overseas schemes, showing that we can tailor it.

This is a framework that says, "If you're here for the long haul, you've got to bring something to the table, not just pull up a seat." Australia and Canada have shown us the path with lower costs and tighter controls; we would be stupid not to take it. I would like to know why the Government would disagree with the principles behind the new clause. Why do the Government want foreign criminals to remain in the UK with indefinite leave to remain? If the Government believe in the £38,700 amount for skilled workers to obtain a visa, why would that not apply to people remaining in the UK indefinitely?

Pete Wishart (Perth and Kinross-shire) (SNP): I was not going to speak to the new clause; I was just going to let the hon. Gentleman drone on, in the hope that we could possibly get away on Thursday morning, but I have been irked to my feet. I am not sure whether I prefer the new loquacious hon. Member for Stockton West. I do not know what he has done about his speechwriting, but I preferred the version that we had last week. That was probably more in keeping with the Conservatives' contributions to this Committee.

This is a horrible new clause, which penalises lower-income workers, deters skilled immigration and harms vulnerable groups. The retrospective nature of some of the provisions is simply absurd, and would lead only to legal challenges and all sorts of administrative complications. The new clause would introduce retrospective punishments, taking ILR away from individuals who had received it under the previous rules simply because a future Government—thank goodness this will never be so—had later decided to raise the bar. People make long-term decisions to buy homes, raise families and contribute to communities based on the stability of ILR. Changing the rules after the fact destroys trust in the whole system.

The proposal sets an arbitrary income threshold of £38,700, meaning that a nurse, teacher or social worker—people the UK depends on—could lose their ILR. Many industries, including healthcare, hospitality and retail have workers earning below that level. Are we really saying that under no circumstances would they be welcome? The proposal also ignores economic realities. People face job losses, illness or temporary hardships. Should losing a job also mean losing the right to live in the UK?

New clause 32 states that ILR should be revoked if a person has received any sort of "social protection", including housing support. This would punish people who have worked hard and contributed but who need temporary support due to circumstances often beyond their control. It targets families, disabled people and those facing financial hardship, effectively saying, "If you need help, you don't belong here." Skilled workers, investors and entrepreneurs want certainty. If they fear that a downturn in income or a short period of hardship could see them lose their right to remain, they will choose other countries over the UK.

As we have also heard, how can this be enforced? Constantly monitoring ILR-holders' income, benefits and job status would be an administrative disaster; it would be costly, error prone and unfairly target individuals. This new clause is simply cruel. It is unnecessary and unworkable, and I hope that it is rejected out of hand.

Katie Lam (Weald of Kent) (Con): We have spoken already about indefinite leave to remain, which is also referred to as settlement. We have discussed the most basic requirement for eligibility, which is time, and our suggestion that the timeframe be extended from five years to 10. The new clause covers revocation, or the circumstances in which we believe that indefinite leave to remain status should be removed from an individual to whom it has been granted.

As my hon. Friend the Member for Stockton West set out, the first of these conditions is whether a person has engaged in criminality. Our definition for criminality is based on that used in section 32 of the UK Borders Act 2007, under which a person is a "foreign criminal" if they are neither a British nor an Irish citizen; if they have been convicted of an offence, where that conviction takes place in the United Kingdom; and if the period of imprisonment to which they are sentenced is at least 12 months. It also applies to a person who is a "serious criminal", as defined in section 72(4)(a) of the Nationality, Immigration and Asylum Act 2002.

It is already the case that individuals with settled status can be deported from the UK by having ILR status revoked at the discretion of the Home Secretary. This new clause makes that process automatic. We can see no reason why a person who has committed a crime—particularly based on the current legislation—that is so serious that they are sentenced to a year in prison should be able to continue to be in this country at all, let alone to retain ILR status and with it all the generosity and safety net of the British welfare state, including social housing, benefits and free healthcare.

Secondly, we have included in this new clause a condition that is effectively a knock-on effect from our earlier new clause 25, which would revoke ILR status conferred after this Act comes into force, where that status would not have been conferred under these new conditions.

Thirdly, the new clause applies to those who have been in receipt of social protection, as defined by the Treasury's "Public Expenditure Statistical Analyses", which includes personal social services in various different categories, as well as incapacity, disability and injury benefits, pensions, family benefits, income support and tax credits, unemployment benefits, universal credit and social housing. Social protection is a fundamental part of modern British society, but we should be honest that it is also incredibly expensive. Such generous provision should be available only to citizens. It must be a fundamental principle of our system that those who come to this country contribute fiscally more than they cost. What they pay in tax should more than cover the cost of the public services that they use. That is the opposite of the

situation that we have now; only a small proportion of those who have come to this country over the past few years are likely to be net lifetime contributors. That is unaffordable.

That reality also underpins our final condition of income falling below £38,700 for six months or more in aggregate. That figure of £38,700 was chosen to sit alongside the general skilled worker threshold, the minimum earnings threshold for skilled worker visas, and the minimum income requirement for a family visa sponsor proposed by the last Government. It was chosen as it represents the 50th percentile, or the median, of earnings for jobs at the skill level of RQF3—level 3 of the regulated qualifications framework—which is perhaps more easily recognisable as the equivalent of A-levels and BTECs.

We believe that the new clause will go some way to addressing the problems that we have set out of very high volumes of people coming to this country in recent years who are not set to be net fiscal contributors to the public purse over the course of their lifetimes. We hope that the Government will consider adding it to the Bill.

We also welcome the comments from the Minister on the fact that she is looking at this issue. Could she tell us specifically whether she is looking at any of these conditions, and, if so, which? How are her discussions coming along, and when does she hope to report back to the House on her plans?

2.45 pm

Seema Malhotra: I am pleased to speak about new clause 32, which would mean that people who are settled in the UK had that status automatically revoked in a wide range of circumstances. Irrespective of any other relevant factors, such as how long a person has lived here, settlement could be automatically revoked when a person earns less than £38,700, has received benefits or would not meet requirements for settlement that have subsequently changed.

We have heard important contributions from hon. Members across the Committee about why that is unworkable, for a range of reasons. I understand why the Government are seeking to bring this forward—*[Interruption.]* Sorry, the Opposition—it was a slip of the tongue. I also understand that the shadow Minister is seeking to continue his run of speeches—with his new tie today—in this Committee sitting, but let me lay out a couple of circumstances that clearly show that the new clause would be unworkable.

The proposals would create injustice in certain cases. People who are settled and have been paying tax and national insurance contributions for decades could have their settlement revoked because they temporarily fall on hard times. Let us imagine, for example, a couple—a British man with his American partner—who have been living together in this country for many years. He gets badly sick and he cannot work. She ends up having to look after him in local authority housing. I guess that under the Opposition's rules, when he dies, she would be banned from settling in the UK. That is the sort of circumstance that would logically follow.

It is important to note as well that most migrants become eligible to access public funds only at the point at which they gain settlement—mainly ILR. The expectation is that temporary migrants coming to the UK should be able to maintain and to accommodate themselves without recourse to public funds. That approach reflects the need to maintain the general public's confidence that immigration brings benefits to our country, rather than costs to the public purse. I can understand that as an underlying driver for some of today's debate, but it is important that we keep this in the context of an immigration system that is fair, controlled and managed. The no recourse to public funds policy is a long-standing principle adopted by successive Governments. There is also an ability to apply for the no recourse to public funds condition to be lifted in certain circumstances, so there are safeguards for the most vulnerable.

Let me turn to the new clause's other core condition, on revoking the ILR of a "foreign criminal"—the shadow Minister referred specifically to that. As we have said before, and throughout this Committee, settlement in the UK is a privilege, not an automatic entitlement. Settlement conveys significant benefits and provides a pathway to British citizenship. Settlement can be revoked for criminality, deception or fraud in obtaining settlement, or other significant non-conducive reasons. A person's settlement is also invalidated if they are deported. The Government have been clear—in fact, we could not have been clearer—that foreign criminals should be deported from the UK whenever it is legal to do so. Any foreign national who is convicted of a crime and given a prison sentence is considered for deportation at the earliest opportunity.

I want to emphasise another point—Government Members, in particular, have mentioned this—about the figures from the Centre for Policy Studies. It is worth repeating that figures in that report refer to a period of historically high levels of net migration under the previous Government. For that and many other reasons, they are not a sound basis for an evidence-based discussion.

Katie Lam: Will the Minister give way?

Seema Malhotra: I will—I expect the hon. Lady to make the point she made earlier.

Katie Lam: The Minister might be anticipating what I am about to say: we would very much appreciate, in that case, if she could instead provide an evidential basis from the Government on which we could make some of these decisions.

Seema Malhotra: I just mention that we have the upcoming immigration White Paper, in which we will set out our approach to the immigration system and how to support it to be better controlled and managed for the future. We are clear that net migration must come down. She will know that under the previous Government—to which she was a special adviser—between 2019 and 2024, net migration almost quadrupled. That was heavily driven by a big increase in overseas recruitment. A properly controlled and managed immigration system, alongside strong border security, is one of the foundations of the Government's plan for change. It is extremely important to have a debate based on tackling those root causes and issues, rather than tinkering around the edges and having a scenario in which the partner of a British citizen, who subsequently falls ill and dies, has

[Seema Malhotra]

her ILR revoked. It is important to understand what the Opposition tabling such amendments means for people's lives and fairness in our society.

Tom Hayes: Briefly, prompted by the Opposition, we are inching towards a more interesting debate, on how to assess the financial benefits and costs of migration, while grounding that in available and high-quality data. In 2021, in Australia, the Treasury undertook a fiscal assessment and has repeated that annually. I know, too, that the Migration Advisory Committee is looking to improve the quality of data, because over 14 years we have had such poor-quality data on which to make assessments. It is starting to look at different categories of workers in order to assess whether they are net contributors or net drags. That is a really positive step.

One of the reasons why we are relying on "best" or "only" reports is because we had a Government who could have improved the quality of the data to make managed assessments of what controlled immigration that benefits our economy would look like, but instead, unfortunately, we had the borders thrown open with no sense of what our economy ought to be or what the skills ought to be, which is regrettable. Will the Minister comment on the importance of the White Paper to drive forward the immigration system that we actually need, grounded in the data that we need?

Seema Malhotra: My hon. Friend highlights a crucial point about the importance of evidence-based policy and of good data, which was sorely lacking across the whole immigration system when we came into office. The utter chaos, with backlogs in every part of the system, put huge pressure on it and made it much harder to get information about where the backlogs were and who was in them in order to try to exert some control over the system and get that important data to inform future policy.

My hon. Friend is right to point to the Migration Advisory Committee, which continues to do important work to engage with stakeholders and to work across Government. That is an important part of the work that we are doing to use evidence in a much better way to inform how we link skills policy and visa policy. The work to restore order to our immigration system has been under way since we came into office. We will set out our approach, as he has intimated, in our upcoming immigration White Paper. I am grateful to have had the opportunity to explain why we will not support the amendment, and I respectfully suggest that the hon. Member for Stockton West may wish to withdraw it.

Katie Lam: I welcome the Minister's response, particularly her words about the importance of settlement and citizenship being earned. The Opposition are excited to see the immigration White Paper, and particularly any data and fiscal impact analyses that it may contain. I apologise if this information is already publicly available and I am not aware of it, but can the Minister tell us when the White Paper is due to be published? Can she also set out a scenario in which it would be preferable for a foreign criminal to remain in this country after having been convicted of a crime, and why she considers the new clause to be unworkable?

Seema Malhotra: We have said that we hope to publish the immigration White Paper later in the spring. I have made some remarks in relation to foreign criminals; the Government are clear that they should be deported from the UK whenever it is legal to do so. Any foreign national who is convicted of a crime and given a prison sentence is considered for deportation at the earliest opportunity.

Katie Lam: The Minister says that foreign criminals should be deported whenever it is legal to do so, but the purpose of our amendment is to make it always legal to do so. Why does she not feel that that would be helpful?

Seema Malhotra: I thank the hon. Member for that point. I have laid out the argument about needing an immigration system that is subject to rules and that can recognise different circumstances. I have also laid out the point about foreign criminals and where it is legal to deport them. Anyone who is convicted of a crime is considered for that.

The hon. Member will also understand that there can be complexity in people's arrangements. Anything that becomes automatic in the way that she describes needs to be subject to much more debate than a new clause in this Bill Committee. We are not debating immigration; we are debating a system to stop the gangs and improve our border security. It is important that we see the purpose for which this legislation has been designed.

3 pm

Matt Vickers: We feel strongly about the measures in the new clause, and we wish to press it to a Division.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 25]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 33

BORDERS LEGISLATION: HUMAN RIGHTS ACT

"(1) This section applies to any provision made by or by virtue of this Act, the Illegal Migration Act 2023, the Immigration Acts, and any legislation relating to immigration, deportation, or asylum, including the Immigration Rules within the meaning of the Immigration Act 1971.

(2) The legislation identified in subsection (1), including in relation to the enforcement of immigration policy, deportation, the granting, removal, revocation or alteration of immigration status, or asylum, or other entitlements, must be read and given effect to disregarding the Human Rights Act 1998.

(3) In the Asylum and Immigration Appeals Act 1993, omit section 2.

(4) In the Immigration Act 1971—

(a) in section 8AA—

(i) in subsection (2), omit 'Subject to subsections (3) to (5)'; and

(ii) omit subsections (2)(a)(ii) and subsections (3) to (6);

(b) in section 8B, omit subsection (5A).

(5) In the Nationality, Immigration and Asylum Act 2002—

(a) in section 84—

(i) in subsection (1), after 'must' insert 'not';

(ii) in subsection (2), after 'must' insert 'not';

(iii) in subsection (2), for 'section 6' substitute 'any section'; and

(iv) in subsection (3) after 'must' insert 'not'.

(6) Where the European Court of Human Rights indicates an interim measure relating to the exercise of any function under the legislation identified in subsection (1)—

(a) it is only for a Minister of the Crown to decide whether the United Kingdom will comply with the interim measure under this section; and

(b) an immigration officer or court or tribunal must not have regard to the interim measure."—*(Matt Vickers.)*

This new clause would disapply the Human Rights Act and interim measures of the European Court of Human Rights in relation to this Bill and to other legislation about borders, asylum and immigration.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

New clause 33 aims to help the Government by providing a way to put securing our borders above spurious human rights claims to frustrate removal. It would disapply the entire Human Rights Act 1998, as well as any interim measures of the Strasbourg court that prevent the effective operation of legislation relating to immigration and deportation. The result would be that those seeking to appeal deportation or other immigration decisions would not be able to make human rights claims under the Human Rights Act in British courts.

The new clause would apply that new power to all aspects of immigration control, including enforcement, deportation, the granting or removal of immigration and asylum status, and any other immigration entitlements. We would expect Parliament to legislate and the Home Office to decide immigration cases based on their reasonable interpretation of the European convention on human rights, but UK judges would be able to use only UK law passed by Parliament to decide appeals, and no longer make expansive and common-sense-defying interpretations of what they claim the ECHR means.

The Human Rights Act would still apply to non-immigration matters, so UK judges could continue to apply the ECHR directly to them. We would still be under the ECHR, so applicants would still be able to go to the Strasbourg court, but the new clause would stop UK judges expanding the definitions. In that scenario, it would be possible to deport people pending a Strasbourg appeal, and it would repeat the measure in the Safety of Rwanda (Asylum and Immigration) Act 2024 to give Ministers the power to ignore an ECHR rule 39 interim order. We are not saying that the new clause provides the full answer to controlling our borders. Wider questions such as ECHR membership and wider immigration system reforms are to be addressed in longer-term pieces of work, but the new clause would be a step in the right direction.

The reason the new clause is necessary can be seen in recent decisions about immigration appeals. For example, an Iraqi drug dealer was saved from deportation from the UK after a judge ruled that he was too westernised to be returned to his home country. That man, who was jailed for more than five years after a conviction for dealing cocaine, had lived in Britain for 24 years and has a British-born daughter. Home Office officials attempted to have him deported, but a specialist judge in the asylum tribunal ruled that returning the man to Iraq would violate his human rights as he would be viewed with suspicion. The judge said that the man, who cannot be named, would face persecution in Iraq because he would be seen as westernised.

As we have already mentioned, an Albanian criminal was allowed to stay in Britain partly because his son would not eat foreign chicken nuggets. An immigration tribunal ruled that it would be unduly harsh for the 10-year-old boy to be forced to move to Albania with his father, owing to his sensitivity around food. The sole example provided to the court was his distaste for the type of chicken nuggets available abroad.

Chris Murray: I wonder whether the hon. Gentleman could just assume that we are familiar with those two cases by now and either not bother citing them or think of some new examples to support his arguments.

Matt Vickers: I think they are relevant; they are things that both the public and I are bothered about. They show the failings of the system and why people are so concerned about the way that it is going.

As a result, the judge allowed the father's appeal against deportation as a breach of his right to family life under the European convention on human rights, citing the impact that his removal might have on his son. An attempt to deport a Sri Lankan paedophile, who was convicted of assaulting three teenage boys, was delayed over claims that deportation would breach his human rights.

Tom Hayes: Is the hon. Gentleman concerned more about the Human Rights Act or its application by judges?

Matt Vickers: I am concerned about the consequences of the Human Rights Act for cases such as this and its role therein.

Tom Hayes: I did not understand what the hon. Gentleman said. Is he concerned more about the judges' application of the Human Rights Act or the Act itself?

Matt Vickers: I am concerned, in the context of this new clause, about what the Human Rights Act means for these immigration cases. That is why the new clause proposes to remove its impact and disapply it.

Tom Hayes: I am still not very clear—I apologise, maybe I ate too much at lunch. Does the hon. Gentleman have issues with the Human Rights Act such that he

[Tom Hayes]

believes that we ought not to be applying it generally? Is this the first step towards its disapplication, or is he more concerned that, while the legislation is fine, we have in what seems a minority of cases judges who are not applying it correctly? Could he also tell me whether what he has here is a snapshot of cases that he is concerned about or the totality of cases that he is concerned about?

Matt Vickers: We have talked about the relevance of disapplying the Human Rights Act with regards to immigration and the impact that it is having on these cases. I think I have been clear, and the hon. Gentleman can read *Hansard*.

As I was saying, the man was jailed for five offences of sexual activity with a child but has been able to stay in Britain since 2011, owing to a protracted dispute over his asylum case. In 2012, the man, who cannot be named, was branded in court a "danger to the community" over his offences against boys aged between 13 and 15. He then applied for asylum by claiming that his life would be at risk were he to return to Sri Lanka, because he is gay. Since his initial application, his case has been through several court hearings, as judges have assessed whether deporting the 50-year-old would breach his human rights. Those are just three examples of how ever-expanding interpretations of the Human Rights Act have been increasingly frustrating the removal of those who objectively ought to be deported.

Tom Hayes: That was a helpful clarification to my earlier question about whether what the hon. Gentleman is citing represents a snapshot or the totality—he says that they are three of the total number. How many, in total, has he looked at that have caused him such alarm?

Matt Vickers: I think if we allowed first-tier tribunals to go public, we would see a lot more. These things undermine public confidence in the legal framework and the institutions that uphold them, and I think they are terribly wrong. One of these cases is one too many. They are happening in ever-increasing numbers; that is why we have tabled this new clause, and the hon. Gentleman will have the opportunity to vote for it or otherwise.

Our new clause represents a first step to restore some common sense to immigration appeals. New clause 33 steps up to wrest back control from a judiciary that has wandered far from the reservation, turning the Human Rights Act into a sprawling, open-ended blank cheque for immigration status, a carte blanche that has left us all scratching our heads at the sheer audacity of it.

Tom Hayes: That is also a helpful clarification, because the hon. Gentleman's concern is with the judiciary and its behaviours. Can I clarify what he has just said, exactly as I heard it: his concern is purely about the judge's application of the Human Rights Act, and he himself is absolutely fine with the Act?

Matt Vickers: We allow our domestic courts to use it. We have created the framework and put it in place, and they do what they can with what is in front of them. I am concerned about the way in which it is applied, and we need to change that if we want to impact the outcomes of those cases and appeals.

Last year alone, we saw far too many appeals built on article 8, the right to a family life, flooding courts with ridiculously broad pleas. This Parliament is elected to decide the laws of the land. Judges are there to uphold that law, yet they have morphed into border gatekeepers, perched on high and second-guessing Home Office decisions with interpretations so elastic they would snap any thread of reason, and family life ballooning to mean whatever they fancy on any given day. The new clause yanks that power back to where it belongs: with MPs, who are answerable to the people who elect them.

New clause 33 is not just a legal tweak; it is a turbocharge for a deportation system bogged down by endless appeals, with removals stalled by Human Rights Act challenges. Each case drags on, costing tens of thousands of pounds per detainee in legal fees and housing, and clogging up detention centres that are already at capacity. Disapplying the Human Rights Act for immigration would fix the logjam, letting Ministers and officials act fast, deporting those our domestic legislation was created to deport and freeing up resources for border patrols and visa processing, which actually keep us secure.

New clause 33 would restore public safety—a lifeline for a priority that has been fraying at the edges and unravelling thread by thread, as dangerous individuals exploit Human Rights Act loopholes to cling to our soil like barnacles on a ship. In 2024 alone, thousands of foreign national offenders—thieves, drug peddlers and worse—languished in UK prisons, costing taxpayers millions to house. Nowhere near enough were bundled on to planes and removed, leaving thousands to stroll out post their sentence, free to roam our streets, because of Human Rights Act claims tying our hands and deviating from Parliament's intended outcomes.

New clause 33 would cut through that mess. It would mean swift, no-nonsense removal of those who have shattered our laws—not endless hand-wringing debates over some nebulous right to stay that keeps them loitering in our towns. Public opinion, or the view of British law-abiding taxpayers, is clear—nearly three quarters call for foreign criminals to be removed—yet here we are. The current set-up lets threats fester when they should be gone. As the months go by, more of these bizarre judgments emerge, undermining public confidence in the entire system and our legal institutions.

Let us take a tour beyond our shores, because other nations are not fumbling in the dark; they are lighting the way, showing us that this is not some wild, radical leap but a steady, proven path that we would be daft not to tread. For starters, France increased its deportations by 27%, and is also seen to be deftly side-stepping ECHR interim measures, with domestic law overrides. Twenty-seven per cent. sent home—no faffing about with Strasbourg rule 39 edicts; just a clear-eyed focus on keeping France's borders taut and its streets secure.

Then there is Australia, where the Migration Act does not blink. Rights claims bow to border control, and many are whisked out yearly with minimal fuss. The law, created by those elected to do so, determines who stays and who goes. These are not rogue states; they are democracies—proud and pragmatic, balancing security with sovereignty. New clause 33 strides right

into that company. Parliament would lay down the law, not Strasbourg's fleeting winds, echoing what has clicked abroad, from Paris to Perth.

I would be interested in the Minister's thoughts on this proposal—in particular, whether she thinks that some of the recent examples of failed deportations are acceptable. We are apparently very familiar with chicken nugget-gate. If she agrees that some of these outcomes are unacceptable but does not feel that this approach is the way forwards, how will the Government end these cases, which are making a mockery of our justice system and undermining public confidence in our legal institutions?

Pete Wishart: I am compelled again to rise in opposition to what is probably the most egregious of all the new clauses that we are having to consider in today's marshalled groups. The hon. Gentleman has laid some competition before us, but this new clause is by far the most disgraceful and appalling. The Human Rights Act is an important guarantee. It is what makes us good world citizens and provides rights that are universal. It protects fundamental freedoms such as the right to life, the prohibition on torture and the right to a fair trial—and the Tories do not like it one bit. The right-wing nonsense that we heard from the hon. Gentleman is a fundamental departure from the principle that human rights apply universally, not just to those the Government deem worthy. It is a dangerous precedent that undermines the UK's long-standing commitment to justice, fairness and the rule of law.

3.15 pm

The Human Rights Act incorporates the ECHR into British law. The new clause would disapply the Act in immigration cases, effectively removing domestic judicial oversight and shifting the burden to the European Court of Human Rights in Strasbourg. I listened to the hon. Gentleman very carefully, and I still do not know whether he thinks that is a good thing or not. It is not taking back control; it is arguably outsourcing decision making to an international body, creating delays and legal uncertainty. Perhaps we will get some more from him when he sums up on the new clause, but this proposal would take decisions about immigration cases out of the hands of the judiciary and hand them to politicians. I cannot think of anything scarier than the hon. Gentleman being in charge of determining asylum cases, and I think that prospect would appal most ordinary people in this country.

The Leader of the Opposition argues that some foreign criminals and illegal migrants are using the Human Rights Act to avoid deportation. What we have just heard is that the Conservatives want to dismantle human rights because of chicken nuggets. The idea that the entire human rights framework should be dismantled to address a few egregious cases is quite simply absurd. The Conservatives left the asylum system in chaos, spent hundreds of millions of pounds on the failed Rwanda scheme and presided over record high small boat crossings, and now they want to strip basic rights from an already vulnerable group.

The ECHR was established right after the end of world war two to promote human rights, freedom and democracy. One of its driving forces was Winston Churchill, the wartime statesman revered by Conservatives and Brexit supporters as a symbol of British independence and self-reliance. The UK was the first nation to ratify the convention, drafted in 1950 and enacted in 1953, and it formed a broader set of commitments agreed by signatories to the 46-member Council of Europe, of which the UK remains a member despite its departure from the EU.

I do not often agree with former Tory chairmen, but I agree with Lord Patten when he gave a clear condemnation of the move to leave the ECHR, calling it "absolute drivel". In the Conservative party's obsession with the ECHR, and their "will they, won't they?" about leaving it, we have never yet heard clarity on this. It is little more than a political distraction, designed to scapegoat supranational institutions instead of taking responsibility. It is dangerous territory, and I urge colleagues to make sure that this is thoroughly rejected right out of hand.

Katie Lam: In November 2024, a Congolese paedophile who sexually assaulted his own stepdaughter was allowed to remain in the UK despite the Government's attempts to deport him, out of concern that forcing him to leave the country would interfere with his right to a family life. In December 2024, a Turkish heroin peddler was allowed to stay in the UK because it was ruled that deporting him would interfere unduly with his family life, despite the fact that he had returned to Turkey eight times since coming to Britain.

In February of this year, a Nigerian woman who was refused asylum eight times was allowed to remain in the UK because it was decided that her membership of a terrorist organisation might make her subject to persecution in her home country. Earlier this month, a Nigerian drug dealer escaped deportation because he believed that he was suffering from "demonic forces". Meanwhile, Samuel Frimpong, a Ghanaian fraudster, has been allowed to return to the UK, having being deported 12 years ago, after claiming that he is depressed in his home country.

The list goes on and on. Absurd asylum rulings from our tribunal system seem to emerge on an almost daily basis. What do these cases have in common? In each one, a potentially dangerous person was spared deportation because of our membership of the European convention on human rights, and, crucially, the domestic legislation that enshrines the convention in British law—the Human Rights Act. This legislation is clearly not fit for purpose when it comes to managing and securing the border. It is enabling dangerous foreign criminals to remain in the UK, and putting the British public at risk.

It is time we recognised that decisions about asylum and immigration should be made by politically accountable Ministers, rather than by unaccountable judges and tribunals. That is the purpose of our new clause, which seeks to disapply the Human Rights Act and interim measures of the European Court of Human Rights in relation to the Bill and other legislation about borders, asylum and immigration.

Pete Wishart: Just to clarify, I think the hon. Lady is saying clearly that what she intends to do is to take decisions about immigration out of the hands of judges, and leave them in the hands of politicians. Is that her intention?

Katie Lam: I thank the hon. Gentleman for his question—yes, I think it is fundamentally important that decisions about who can be and remain in our country are made by people who are accountable to the public.

Mike Tapp (Dover and Deal) (Lab): Will the hon. Lady give way?

Katie Lam: I will make a little progress.

The concept of universal rights is clearly a good one. It is one of the great gifts to humanity of the Judeo-Christian tradition to recognise that every human life has inherent worth, and every human being should be treated with the dignity that that inherent worth confers. But any set of rules that people might write over time can be distorted or abused, or exploited to take advantage of our society, our kindness and the British impulse and instinct towards trust, tolerance and generosity. Our rules and laws on human rights, and the organisations to which we belong that were created in the name of human rights, should be subject to scrutiny and debate no less than any other rules and laws. Lord Jonathan Sumption, the former Supreme Court judge, said that the United Kingdom's adherence to the European convention on human rights

"raises a major constitutional issue which ought to concern people all across the political spectrum."

It is right for us to interrogate our rules. Indeed, that is arguably our main job and the fundamental reason we have been sent here by our constituents. None of our laws should be above repeal, replacement or disapplication, and that must include the Human Rights Act. We are among the luckiest people in the world in that we live in a democracy, and one that I believe has the world's greatest people as its voters. When the British people see repeated activity that contravenes our national common sense, politicians in Westminster must acknowledge that and do something about it.

If the Government do not wish to disapply the Human Rights Act and interim measures of the European Court of Human Rights in matters of asylum and immigration in order to control the border and put a stop to the perverse cases and decisions we are seeing relentlessly arise in the courts, what is their solution? How will they restore common sense, fairness and the primacy of public safety to the security of the border?

The Chair: Before I call the Minister, I will just point out that *Erskine May* urges us not to be critical of judges in UK superior courts. I am sure hon. and right hon. Members will wish to be circumspect in their remarks.

Dame Angela Eagle: I am not sure how much of the debate we could have heard, Dr Murrison, had you made that observation at the beginning of it.

I do not think this Government wish to join Belarus and Russia among those who are not signed up to the European Court of Human Rights. The Government are fully committed to the protection of human rights. When we talk about human rights, that means all people who are human: everybody, applied universally.

As the Prime Minister has made clear, the United Kingdom is unequivocally committed to the European convention on human rights. The Human Rights Act is an important part of our constitutional arrangements and fundamental to human rights protections in the UK. To start taking those away on a bit-by-bit basis, particularly beginning with people who are very unpopular and have done difficult or bad things, could be the start of a very slippery slope if we are not careful. That is why I am proud that our Border Security, Asylum and Immigration Bill has printed on its front cover that it is compatible with convention rights. This Government will always do things that are compatible with convention rights.

The paradox of some of what has been said in the debate we have just had is that it politicises decisions. That is a very different approach to judicial issues from the one we have seen for very many years, where, in effect, a lot of the powers on particular issues that used to sit with the Home Secretary have been taken by judges who are publicly accountable for their decisions. I do not think that this Government would want to see that reversed. The paradox of new clause 33 is that all those who potentially had a human rights claim, whatever their circumstances, could go straight to the Strasbourg court, which would clog up that court. As the hon. Member for Perth and Kinross-shire pointed out, that is not taking back control, it is abrogating it, and would flood the Strasbourg court with decisions that could have sensibly been taken here.

That is not to say that any one of us would not be frustrated by particular individual decisions, but I caution against using decisions that have been only partially covered or talked about on the front pages of *The Daily Telegraph*, which often takes decisions in cases out of context. We have talked a lot about chicken nuggets, and I would just put on the record that that case is being appealed, and judicial activities on that case have not yet finished.

With that commitment to human rights and European convention rights, I hope that Opposition Members will think about some of the potential consequences of what they are suggesting in chopping up human rights and wanting to put us in the same company as Belarus and Russia; about the way convention rights were developed; and about the benefits that adhering to human rights frameworks has given us as a democracy over the years.

Matt Vickers: I am sure that the Minister must disagree with some of the examples that we have seen, and agree that they undermine public trust in the judiciary, legal institutions and the frameworks we have. What is the solution? Must we grin and bear the appalling outcomes of those cases or is there a solution? How does she propose to stop such things happening?

Dame Angela Eagle: I would respectfully say that the hon. Gentleman's party had many, many years to think of a solution, and most of the cases that Opposition Members have raised today had their genesis in the years that they were in power. Close to the very end, as they became more and more frustrated, they started coming up with more and more outlandish approaches.

Obviously, one wants the entire judicial process to be used, as speedily as possible, and if the Home Office wishes to appeal a particular case, it will do so. We keep a constant eye on the issues and we think about reforms that we could make. Obviously the hon. Gentleman will

be the first to hear if we decide to make changes, but we do not wish to abrogate from the Human Rights Act, the ECHR and the human rights framework. That is where we and other Opposition parties differ from him and his party. That is why I do not accept new clause 33 and I hope that the Committee will vote against it if it is pressed to a vote.

Katie Lam: I hope it was clear in my remarks, but for the avoidance of doubt or ambiguity I want to say that the Opposition do not criticise our judges. Indeed, as my hon. Friend the Member for Stockton West said, they are doing the best they can with the rules and precedents under which they operate. That is why the new clause seeks to change those rules—

Tom Hayes: With the greatest respect, a reading of the *Hansard* report of what the hon. Member for Stockton West said would be contrary to what the hon. Lady has just asserted. What the hon. Gentleman said could in no way, shape or form be described as complimentary to or supportive of judges. In fact, it was very undermining of judges.

Katie Lam: My hon. Friend clearly said that judges are doing the best they can with the rules and precedents that they have been set. I have described our judges as unaccountable to the public. That is not a criticism: it is a fact.

Matt Vickers: The public are appalled by these cases. The hon. Member for Perth and Kinross-shire does not want us to change legal frameworks over chicken nuggets: if the Human Rights Act creates a situation in which criminals, rapists and paedophiles are able to stay against domestic law and the intentions of the people charged with making that law, it is unacceptable. We feel strongly about this and wish to divide on the matter.

3.30 pm

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

The Committee divided: Ayes 2, Noes 14.

Division No. 26]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 34

OFFENCES AND DEPORTATION

"(1) The UK Borders Act 2007 is amended as follows.

(2) In section 32—

(a) in subsection (1)(a), at the end insert 'and';

(b) in subsection (1)(b) leave out 'and' and insert 'or'; and

(c) leave out subsection (1)(c) and substitute—

'(c) who has been charged with or convicted of an offence under section 24 of the Immigration Act 1971'

(d) leave out subsections (2) and (3).

(3) In section 33, leave out subsections (1), (2), (3) and (6A).

(4) The Illegal Migration Act 2023 is amended as follows.

(5) Leave out subsection (5) of section 1 and insert—

'(5) The Human Rights Act does not apply to provision made by or by virtue of this Act or to—

(a) the Immigration Act 1971,

(b) the Immigration and Asylum Act 1999,

(c) the Nationality, Immigration and Asylum Act 2002,

(d) the Nationality and Borders Act 2022, or

(e) the Immigration Act 2016.'

(6) In section 6 of the Illegal Migration Act 2023, leave out subsections (4) and (5).

(7) In section 24 of the Immigration Act 1971, leave out all instances of 'knowingly'." —*(Matt Vickers.)*

This new clause would prevent a foreign national who is convicted of any offence from remaining in the UK, as well as anyone who has been charged with or convicted with an immigration offence under section 24 of the Immigration Act 1971.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to consider new clause 42—*Removals from the United Kingdom: visa penalties for uncooperative countries*—

"(1) The Nationality and Borders Act 2022 is amended as follows.

(2) In section 70, omit subsections (4) and (5).

(3) In

(4) In section 72—

(a) subsection (1), after 'A country', for 'may' substitute 'must'.

(b) In subsection (1)(a) omit 'and' and insert—

'or,

(ab) is not cooperating in relation to the verification of identity or status of individuals who are likely to be nationals or citizens of the country, and'

(c) in subsection (1)(b), after 'citizens of the country' insert 'or individuals who are likely to be nationals or citizens of the country',

(d) omit subsections (2) and (3), and

(e) in subsection (4), omit from '70' to after 'subsection (1)(a)' .

(5) Omit section 74."—*(Matt Vickers.)*

This new clause would require the Secretary of State to use a visa penalty provision if a country is not cooperating in the removal of any of its nationals or citizens from the UK, or in relation to the verification of their identity or status.

Matt Vickers: Currently a prison sentence of one year is required before a foreign national who is a convicted criminal can be deported. Even then, removal can be frustrated by asylum and human rights claims. New clause 34 would prevent a foreign national who is convicted of any offence from remaining in the UK, as well as anyone who has been charged with or convicted

[Matt Vickers]

of an immigration offence under section 24 of the Immigration Act 1971, and would disapply the Human Rights Act from those cases. We believe that the protection of British citizens is paramount and should be the overriding priority for Government. If a foreign national has been convicted of any offence, they should lose their right to remain in the UK.

Dame Angela Eagle: On that point we agree, so why was his Government so tardy at actually deporting foreign national offenders when they were in office?

Matt Vickers: We have just had a lengthy discussion about the Human Rights Act and the impact it has on deportations. However, if she agrees so wholeheartedly on the principle, I am sure she might consider backing our amendment.

There are a number of countries where the UK has a significant number of foreign national offenders currently serving in British prisons. However, we deport only a small number of those foreign national offenders each quarter. Our new clause 42 would require the Secretary of State to use a visa penalty provision if a country is not co-operating in the removal of any of its nationals or citizens from the UK, or in relation to the verification of their identity or status. We have done this by amending the Nationality and Borders Act, so that the ability to impose visa sanctions is not discretionary but mandatory. We know that there are countries that are hard to secure returns to. We believe strongly that that should not be without consequences for those countries.

New clause 34 shifts the lens to where it belongs—on the victims left in the wake of foreign offenders, not the perpetrators gaming the system. In 2024, theft offences alone averaged just 8.1 months—a shopkeeper's livelihood dented, a pensioner's purse snatched, or a family's peace of mind and sense of security destroyed. Public order crimes averaged just 9.6 months, with more huge consequences for the wellbeing of victims who are left with a fear of entering public spaces or unable to go about their ordinary lives. Yet the one year deportation bar enables those culprits to linger, post-sentence, free to reoffend while victims wait for justice that never comes.

This clause says, "Enough." Any conviction, for shoplifting or worse, triggers removal—no Human Rights Act excuses—because every day a foreign offender is allowed to stay is another day a British victim's trust in the system erodes. Why are the Government okay with that shadow hanging over our streets? New clause 42 would force nations to play ball uphill. We see too many countries dither and delay in refusing to take back offenders. Mandatory visa sanctions flip that script. No co-operation, no UK visas for their elite. Watch fast how passports materialise when there are real consequences. Why is Labour soft-pedalling when we could wield this stick, clear the backlog and reduce pressure on prison places?

Katie Lam: New clause 34 prevents any foreign national who is convicted of any offence from remaining in the UK. It should be a fundamental principle of our system that immigration never makes the British public any less safe. Unfortunately, however, many of those who have come to the UK in recent years have broken our laws. According to Ministry of Justice figures, a staggering 23% of sexual crimes in the UK—almost one in four—are committed by foreign nationals.

The overall imprisonment rate for foreign nationals is 20% higher than that for British citizens. Of course, the trend is not uniform: some nationalities are more heavily represented than others. Albanian migrants are nearly 17 times more likely to be imprisoned than average; those from Algeria are nearly nine times more likely and those from Jamaica nearly eight times more likely to be imprisoned than average.

Those who seek to harm this country, to break its laws and to undermine what we hold to be fair and right should not be allowed to remain here. As the Government are well aware, our prisons are already overcrowded. We must not allow foreign criminals to continue exacerbating this problem and we must not endanger the British public by allowing foreign criminals to stay in this country.

Under our current system, too many of those who break our laws are being allowed to remain in the UK. Often, Home Office attempts to deport foreign criminals are blocked because of absurd and ever expanding human rights rules. In the interests of public safety, we must not allow foreign criminals to remain in Britain; that includes by making sure that the Human Rights Act cannot be used to prevent us from deporting those who break our laws.

How, specifically, does new clause 34 do that? It amends section 32 of the UK Borders Act 2007, which we have already mentioned today. Section 32 would be amended from its current form, which defines a foreign criminal as a person who is neither a British nor an Irish citizen, who is convicted of an offence that takes place in the United Kingdom and who is sentenced to a period of imprisonment of least 12 months, or is a serious criminal as defined in section 72 of the Nationality, Immigration and Asylum Act 2002. What would replace section 32 would be much simpler; it would instead say that a foreign criminal was anyone who is neither a British nor an Irish citizen who is convicted of any offence in the United Kingdom, and explicitly include within that anybody who has been charged with or convicted of an offence under section 24 of the Immigration Act 1971, which sets out the situations in which a person can be considered to have entered this country illegally. That includes if they do so in breach of a deportation order; if they required leave to enter the United Kingdom and knowingly came here without that leave; or if they required leave to enter the United Kingdom and knowingly stayed here beyond the time conferred by that leave, among other specific conditions.

New clause 34 also seeks to ensure that the rules will be upheld in all circumstances and asserts therefore that the principle of removing criminals from this country is of utmost importance and must be prioritised above other legislation. That includes human rights legislation, for the reasons we have already set out.

I turn to new clause 42, which requires the Secretary of State to use a visa penalty provision if a country proves to be unco-operative in the process of removing any of its nationals or citizens from the UK. Such a lack of co-operation may arise in verifying their identity or status or it may pertain to the process of removing

people whose identity and status has not been established. New clause 42 seeks to do that by amending section 70 of the Nationality and Borders Act 2022. That Act set out the idea of a visa penalty provision, effectively allowing the Home Secretary to suspend visa applications from countries that do not co-operate with the activity that the Government are trying to take to secure and protect the border. The new clause would strengthen that Act by changing that from an option for the Home Secretary to a duty and by adding explicitly the point about countries that are not co-operating with the process of verifying the identity or status of individuals whom we consider likely to be nationals or citizens of the countries in question.

Pete Wishart: I am struggling to understand this new clause. There are a number of reasons why other countries may not be able co-operate with the UK on immigration and visa cases—it could be political instability, or there could be a right-wing despot in charge—but that impacts on ordinary asylum seekers. Does the hon. Lady not accept that there are a number of political or even administrative reasons why they are not always able to co-operate?

Katie Lam: The new clause maintains the Home Secretary's ability to judge whether or not a country is being unco-operative. If it is unable to help, that is different from being unco-operative in the way that we would define it here.

Tom Hayes: A volume of information seems to be coming at us now, and it feels as though every 20 words, something absolutely absurd is said. It is a marked contrast with what has gone before. I see the hon. Member for Weald of Kent and the hon. Member for Stockton West standing there, but I hear the voices of other people in their party. It feels very peculiar.

I have a specific question. Quite apart from the fact that the Conservatives effectively decriminalised shoplifting, if an Albanian national is convicted of shoplifting but cannot be deported to Albania, is the hon. Lady saying that she would impose a visa penalty on Albania if it did not accept that shoplifting Albanian national, regardless of what that might do for the wider relationship between Albania and the UK in terms of deportations?

Katie Lam: I will happily come to the second question in a second, but I am a little confused. Is the hon Gentleman suggesting that I did not write my speech myself?

Tom Hayes: Yes, actually.

Katie Lam: In that case, I am happy to reassure him that I wrote every word.

The short answer to the question about Albania is yes. We think that would be completely appropriate. Why would Albania refuse to accept one of its own citizens that should, by our rules and our laws, be returned to that country? If it refuses to do so, we would absolutely consider that to an appropriate trigger for that response.

To continue what I was saying, new clause 40 amends section 70 of the Nationality and Borders Act, and it expands the Act to cover both nationals as well as citizens. We consider that it should be a basic and fundamental principle that we should be able to remove from this country those who break our rules. That is harder than it might sound, particularly when individuals are determined to lose their documents and obfuscate their identity and origin in every way they can. What we propose here will align other countries' incentives with our own. It will create substantial pressure on other nations to co-operate with us to secure our border, and we strongly hope that the Government will consider adding it to the Bill.

Dame Angela Eagle: New clauses 34 and 42 reprise some of our debate on the last group of new clauses, but they also introduce the idea of the visa penalty that, as the hon. Member for Weald of Kent has just explained, is encompassed in new clause 42. New clause 34 seeks to extend automatic deportation to any foreign national convicted of an offence in the UK, or charged with an immigration offence, without consideration of their human rights. We dealt with some of that in the last debate. It would remove protections for under-18s and victims of human trafficking, and it seeks to extend the automatic deportation provisions to certain Commonwealth and Irish citizens who are currently afforded exemption from deportation.

I do not believe these new clauses would be workable. They are unrealistic and would undermine our international obligations. We already have the power to deport any foreign national on the grounds that doing so would be conducive to the public good, regardless of whether they have had to serve the 12-month prison sentence that the UK Borders Act 2007 requires. If they are subject to a 12-month prison sentence, it is a duty to deport them.

The hon. Member for Weald of Kent was a special adviser in the Home Office, so she knows about these things, and the hon. Member for Stockton West is a spokesperson in the shadow Home Office team. The Conservatives talk a lot about deportation, but they did not do a lot about it when they had the power to do so.

3.45 pm

In the aftermath of the general election on 4 July 2024, by the end of December the new Government had increased enforced deportations of foreign national offenders, most of them directly from prison, by 21%. The legacy that we were left included 18,000 time served foreign national offenders who had done their time in jail, had been released and were running around in our communities. Clearly, we have a big backlog that we have to try to deport. Despite Opposition Members' protestations, they did not try hard enough to deal with deportation in those cases. A lot of those foreign national offenders did not ever get to the stage of making human rights claims against being deported; they were simply not picked up and deported by Immigration Enforcement because the Conservatives took their eye off the ball.

À propos of new clause 34, we do not think it would be proportionate to deport a person for a single minor offence. That could mean not having a TV licence, for example. Do we really want to deport people for not having a TV licence, given that the Conservatives could not deport 18,000 time served foreign national offenders, who are in our communities even now—some have committed serious offences—when there is a legal duty

to deport them? Conservative Members want to introduce a new clause that increases the number of people we are required to deport, but they singularly failed to deport foreign national offenders who were jailed during their time in office. They seem to be protesting too much about their legacy and not dealing with the realities.

The new clauses would not prevent persons who are being deported from raising human rights claims with the European Court of Human Rights. A bit like the last group of new clauses, they would deliver nothing except the outsourcing of our deportation considerations to Strasbourg, and that would slow down the removal of those who are being deported. The new clauses would undermine our obligations to identify and support victims of trafficking, as set out in the Council of Europe convention for action against trafficking in human beings, of which we are a signatory.

New clause 34 seeks to amend key immigration offences set out in section 24 of the Immigration Act 1971 so that there is no requirement to prove knowledge. It is likely that such amendments would be subject to ECHR challenge, resulting in delay, fewer successful prosecutions and therefore fewer deportations. New clause 34 also seeks to amend the Illegal Migration Act 2023 by disapplying the Human Rights Act 1998 from key immigration legislation. When we debated the last group of new clauses, we decided that we do not want to do that. This is a technical point, but the new clauses relating to the Illegal Migration Act would have no effect and are redundant because this Bill will repeal those provisions of that Act.

The focus of the hon. Member for Weald of Kent is clear: she wants to ensure foreign national offenders are deported from the UK at the earliest opportunity. I agree that we should be doing that. In fact, we had a 21% increase in the number of enforced deportations of foreign national offenders in our first seven months in office, but the new clause will not further the cause because it risks slowing down removals.

The Government are focusing on the enforcement of the immigration system and increasing returns. Through this Bill, we are creating new powers to enable more effective controls around individuals who pose a threat to the public while deportation is pursued. We will continue that work.

On new clause 42, we have been clear that the swift return of those with no right to be in the UK forms a key part of a functioning migration relationship. That is why more than 20,000 people have been returned since we came into office. My officials and I have been working hard to strengthen relationships with our international partners to that end. For example, on a recent visit to Iraq, the Home Secretary signed a joint statement on migration. That included further work on the return of people who have no right to be in the UK, where returns are currently very slow, and the continued provision of reintegration programmes to support returnees.

Where co-operation with countries on returns falls below the levels expected and where appropriate, we use all levers available to us, including visa penalties and having meetings with the appropriate ambassadors to tell them that if things do not improve, visa penalties will be coming along. It does no good to require the Home Secretary to introduce visa penalties, when penalties are something we can use if we get no co-operation whatsoever. The hon. Member for Weald of Kent should be under no doubt that those sorts of penalties will be used if we think that doing so would have a positive effect on co-operation.

Those who are listening to our debate may not realise that deporting somebody is not easy. It requires getting an emergency travel document issued. In order for a country to issue an emergency travel document, they have to accept that the person concerned is one of their citizens to begin with. That kind of identification takes time. It is important that we try to co-operate with our international partners so that we can make this process as quick and efficient as possible, rather than going to war with our international partners and alienating them. The hon. Member for Weald of Kent should be in no doubt that should visa penalties need to be threatened or introduced, we would certainly do that.

The existing provision in the Nationality and Borders Act 2022 gives the Home Secretary sufficient scope to be able to use visa penalties if it is assessed to be appropriate. The last Government introduced these powers but exercised their discretion not to use them, despite obviously having returns challenges. This Government intend to retain the discretion to use the powers in the right way at the right time, so that they will be effective to the maximum. We do not need a clause in primary legislation to require the Home Secretary to use visa penalties in all circumstances, regardless of the context and without an assessment as to whether it would make things worse or better.

The fact that new clause 42 aims to remove the discretion to decide whether to use the powers is inherently flawed. It is not something that the Opposition sought to do when they were in Government. It is not something that the hon. Member for Weald of Kent seems to have pushed when she was a special adviser in the Home Office. There is no immediate way to discern whether a Government are co-operating or not. That is a discretionary judgment that would have to be taken by Ministers in each context. Visa penalties have not been used before. In each case where their use has been considered, we have been able to successfully unblock co-operation through other means, such as ministerial and senior-level engagement, of which I myself have done some.

The provisions already provided for in the Nationality and Borders Act are sufficient for our primary aim of these powers, and I urge the Opposition not to push the new clauses to a vote.

Matt Vickers: We wish to divide on new clause 34.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 27]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 35

RESTRICTIONS ON VISAS FOR SPOUSES AND CIVIL PARTNERS

"(1) The Secretary of State must make regulations specifying the maximum number of persons who may enter the United Kingdom annually as a spouse or civil partner of another (the sponsor).

(2) Before making regulations under subsection (1), the Secretary of State must consult—

(a) in England and Wales and Scotland, such representatives of local authorities as the Secretary of State considers appropriate,

(b) the Executive Office in Northern Ireland, and

(c) any such other persons or bodies as the Secretary of State considers appropriate.

(3) But the duty to consult under subsection (2) does not apply where the Secretary of State considers that the maximum number under subsection (1) needs to be changed as a matter of urgency.

(4) The Secretary of State must commence the consultation under subsection (2) in relation to the first regulations to be made under this section before the end of the period of three months beginning with the day on which this Act is passed.

(5) The regulations must specify that the number of persons from any one country who enter as a spouse or civil partner of a sponsor cannot exceed 7% of the maximum number specified in the regulations under subsection (1).

(6) If, in any year, the number of persons who enter the United Kingdom as a spouse or civil partner of a sponsor exceeds the number specified in regulations under this section, the Secretary of State must lay a statement before Parliament—

(a) setting out the number of persons who have, in that year, entered the United Kingdom as a spouse or civil partner of a sponsor, and

(b) explaining why the number exceeds that specified in the regulations.

(7) The statement under subsection (6) must be laid before Parliament before the end of the period of six months beginning with the day after the last day of the year to which the statement relates.

(8) Within six months of the passing of this Act, the Secretary of State must by immigration rules make the changes set out in subsections (9) to (11).

(9) The requirements to be met by a person seeking leave to enter the United Kingdom with a view to settlement as the spouse or civil partner of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement includes that—

(a) the applicant is married to, or the civil partner of, a person who has a right of abode in the United Kingdom or indefinite leave to enter or remain in the United Kingdom and is, on the same occasion, seeking admission to the United Kingdom for the purposes of settlement;

(b) the applicant provides evidence that the parties under subsection (9)(a) were married or formed a civil partnership at least two years prior to the application;

(c) each of the parties intends to live permanently with the other as spouses or civil partners and the marriage or civil partnership is subsisting;

(d) the salary of the person who has a right to abode in the United Kingdom or indefinite leave to enter or remain in the United Kingdom equals or exceeds £38,700 per year; and

(e) the applicant and the person who has a right of abode in the United Kingdom are both at least 23 years old.

(10) Leave to enter the United Kingdom as a spouse or civil partner under subsection (9) is to be refused if the parties concerned are first cousins.

(11) For the purposes of this section, 'local authority' means—

(a) in England and Wales, a county council, a county borough council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly, and

(b) in Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994."—*(Matt Vickers.)*

This new clause would require the Secretary of State to specify a cap on the number of spouses or civil partners who may enter the UK, and on the number that may enter from any one country. It would also amend the immigration rules to set a salary threshold.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

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

New clause 39—*Restrictions on visas and grants of indefinite leave to remain*—

"(1) Within six months of the passing of this Act, the Secretary of State must by immigration rules provide for all visa grants, including spousal visas, to be conditional on the following—

(a) the requirement that the applicant or their dependents will not apply for any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules,

(b) the requirement that the applicant's annual income must not fall below £38,700 (or six months or more in aggregate) during the relevant qualification period.

(2) Immigration Rules made under subsection (1) must ensure that any breach of the conditions set out in that subsection will render void any visa previously granted.

(3) The Secretary of State is not permitted to grant leave outside the immigration rules or immigration acts.

(4) A person is not eligible to apply for indefinite leave to remain in the United Kingdom if any of the following conditions apply.

(5) Condition 1 is that a person is a 'foreign criminal' under section 32 of the UK Borders Act 2007.

(6) Condition 2 is that a person, or any of their dependents, has been in receipt of any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules.

(7) Condition 3 is that a person's annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period.

(8) A person who has entered the United Kingdom—

(a) under the Ukraine visa schemes;

(b) under the Afghan Citizens Resettlement Scheme;

(c) under the Afghan Relocations and Assistance Policy; or

(d) on a British National Overseas visa,

is exempt from the requirements of Condition 2 and Condition 3.

(9) For the purposes of subsections (1)(b) and (7)—

(a) the condition applies only to earnings that have been lawfully reported to, or subject to withholding tax by, HM Revenue and Customs; and

(b) the relevant sum of annual income must be adjusted annually by the Secretary of State through immigration rules to reflect inflation.

(10) The Secretary of State may by immigration rules make further provision varying these conditions, including by way of transitional provisions."

This new clause would place certain minimum restrictions on the granting of visas or indefinite leave to remain. It would require migrants to be self-sufficient and do not require state benefits, and would deny ILR to foreign criminals.

New clause 40—*Cap on number of entrants*—

"(1) Within six months of the passing of this Act, the Secretary of State must make regulations specifying the total maximum number of persons who may enter the United Kingdom annually across all non-visitor visa routes, with such regulations subject to approval by both Houses.

(2) The Secretary of State may by regulations also specify a maximum number of entrants for individual visa routes, subject to the overall total.

(3) No visas may be issued in excess of the total maximum number specified in subsection (1).

(4) Any visas issued in excess of the number specified in subsection (1) must be revoked."

This new clause would provide a mechanism for a binding annual cap on the number of non-visitor visas issued by the UK.

Matt Vickers: New clause 35 would require the Secretary of State to specify a cap on the number of spouses or civil partners who may enter the UK and on the number who may enter from any one country. It would also amend the immigration rules to set a salary threshold. We know that there is abuse of the current provisions that allow spouses or civil partners to come to the UK. Our amendment is designed to tighten up the rules so as to make abuse less likely.

We believe that it is important for the Secretary of State to set a cap for the number of people who can enter the UK as a spouse or civil partner, and that the number of persons from any one country who enter as a spouse or civil partner of a sponsor should not exceed 7% of the maximum number specified. We seek to tighten up that route to entering the UK by ensuring that the applicant provides evidence that the parties under subsection (9)(a) were married or formed a civil partnership at least two years prior to the application; that each of the parties intends to live permanently with the other as spouse or civil partner, and the marriage or civil partnership is subsisting; that the salary of the person who has a right to abode in the UK, or indefinite leave to enter or remain in the United Kingdom, equals or exceeds £38,700 per year; and that people cannot sponsor their first cousins under this route.

We believe those changes are necessary to ensure that the relationship is genuine and subsisting, and that the sponsor is able to support their partner once they arrive in the UK. That is part of ensuring that we treat living in this country as a privilege, not a right, and that those coming to the UK to live will contribute to our country.

New clause 39 would place restrictions on the granting of visas and indefinite leave to remain. That is another change to achieve our objective that those who come to the UK are able to contribute. The new clause would ensure that visas were granted only where an applicant or their dependants will not apply for any form of social protection, including housing from the UK Government or a local authority, and where the applicant's annual income will not fall below £38,700 during the relevant qualification period. If either of those conditions fails to be met, the visa will be revoked.

The new clause also specifies that a person cannot qualify for indefinite leave to remain if they are a "foreign criminal" under section 32 of the UK Borders Act 2007; if they or any of their dependants have been in receipt of any form of social protection from the UK Government or local authority; or if their annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period. The new clause would not apply to those who have come to the UK through the Ukraine, Afghan or British national overseas schemes.

New clause 40 would introduce some accountability for this place in the overall numbers of migrants coming to the UK per year. It would establish a mechanism whereby Parliament would approve a binding cap on all non-visitor visa routes set out by the Secretary of State. We believe it is important that the House seriously considers the benefits and trade-offs to this country. The new clause is designed to give the House greater accountability for that decision.

New clauses 35 and 39 would build a wall against the quiet epidemic of immigration fraud that has been seeping through our spousal and visa routes—think of sham marriages brokered for £10,000 a pop, or visa overstayers masked by flimsy claims of support. The two-year marriage rule, the £38,700 threshold and the "no first cousin" clause are not just hurdles; they are detectors rooting out paper partnerships before they drain us dry.

The new clauses would anchor immigration to a bedrock of self-reliance, because a Britain that thrives does not prop up newcomers who cannot stand alone. In new clause 35, the £38,700 sponsor salary, which matches that for the skilled worker route, would ensure that thousands of spousal entrants yearly would not tip the welfare scales further. New clause 39 would double down, barring visas and indefinite leave to remain for anyone who dips below that level or taps social housing, for which 1.2 million people are already waiting. This is not exclusion; it is economics, tilting the balance towards those who lift us, not those who lean on us.

New clause 40 is not just a cap; it hands the House the reins of our migration system. The new clause would make Parliament the arbiter, through a binding cap debated here, voted on here, owned here and on which we are fully held to account by the electorate.

Katie Lam: There are few things in life and in human nature more powerful than the desire to be with those we love. To be separated from a husband or wife by a national border is no small thing. Indeed, for those it is happening to, it can feel like everything. But the role of Government is to determine what is right for the country, not for any one person, couple or family. We must place this discussion in its national context. For too long immigration has been too high, and the spousal visa route is increasingly being used by those who would otherwise not be able to come to Britain.

Over the past few years we have seen the number of dependent visas balloon. As of December 2024, 51,000 migrants, bringing 130,000 dependants with them, had come to Britain via the health and social care route over the previous year. That is over 2.5 dependants per health and social care worker—dependants who will access public services in their own right, including our

already overstretched NHS. The dependant route for health and social care visa holders has since been restricted, but I mention it because it indicates the huge level of demand and desire there is for family members to come to Britain.

4 pm

There is much more to be done across the immigration system to ensure that the dependant route is not abused by those who are unlikely to make a contribution in their own right. Our lax rules around spousal visas are also exacerbating problems around assimilation. Currently, our system has no safeguards against forced or sham marriages. There is a culture in some communities of bringing vulnerable young women to the UK through the spousal route. These women often have a poor grasp of English and no external support network in this country, which creates the perfect conditions for abuse and exploitation. It effectively enables the introduction and furtherance of a family culture that is totally alien to Britain.

In 2016, Dame Louise Casey published the Casey review, which looked into opportunity and integration, particularly in isolated and deprived communities. In her report, she discussed immigration and the impact it has on integration. This is a highly sensitive issue. Dame Louise Casey's language is nuanced and carefully chosen, and I cannot do better than to repeat it here. She says:

"Rates of integration in some communities may have been undermined by high levels of transnational marriage—with subsequent generations being joined by a foreign-born partner, creating a 'first generation in every generation' phenomenon in which each new generation grows up with a foreign-born parent. This seems particularly prevalent in South Asian communities. We were told on one visit to a northern town that all except one of the Asian Councillors had married a wife from Pakistan. And in a cohort study at the Bradford Royal Infirmary, 80% of babies of Pakistani ethnicity in the area had at least one parent born outside the UK."

As Casey says in the report,

"I know that for some, the content of this review will be hard to read, and I have wrestled with what to put in and what to leave out, particularly because I know that putting some communities under the spotlight—particularly communities in which there are high concentrations of Muslims of Pakistani and Bangladeshi heritage—will add to the pressure that they already feel. However, I am convinced that it is only by fully acknowledging what is happening that we can set about resolving these problems and eventually relieve this pressure."

Dame Louise Casey was brave to acknowledge and discuss these problems so honestly in the hope of solving them, and we must find that same courage. The Opposition believe that the cap on spousal visas that we suggest with this provision, both overall and from individual countries, would help with that challenge, and we sincerely hope that the Government will consider it.

Turning to new clause 39, we have already covered various elements of the rules whereby we hope to ensure that anyone who comes to this country is and remains a net fiscal contributor, with a view to ensuring that across their lifetime people who come to Britain contribute more to the public purse than they cost. We have already spoken about rules and conditions relating to foreign criminals, the cost of social protection, and the groups to which we believe that should be limited. As we have said, there is a need for these sorts of visas to come with quite serious floors on salaries.

Finally, I turn to new clause 40, which is the numerical visa cap. As I have mentioned to the Committee before, every election-winning manifesto since 1974 has promised to reduce immigration. Time and again, Governments of both parties have failed to deliver on that promise. Perhaps even more scandalously, those same Governments have often attempted to shift the blame for that failure, refusing to take responsibility for overseeing an immigration system that does not align with the expressed wishes of the British people.

Mike Tapp: Given that the hon. Lady worked previously in a special adviser role and is lecturing us about caps, how were her Government successful with the caps that they set?

Katie Lam: I think and hope that it has been clear from everything I have said that I make no defence of the previous Government's activity. It is incredibly important that Conservative Members are able—as is our duty and our responsibility to the public—to talk about the many things that went wrong and, I hope, to help this Government to avoid making the same mistakes.

Mike Tapp: I appreciate the collegiate working environment that we are now in. In which case, will the hon. Lady expand on the caps set by the previous Government and the results that came after?

Katie Lam: As I have set out already, there was never what we are talking about here, which is a formal cap set by Parliament in legislation. However, a number of aims and promises were given to the electorate over the years, and those promises were not kept.

Selective, limited and tailored to our needs—that is the immigration system that the British public have voted for time and again. If we are serious about delivering it, we must take steps to ensure that future Governments do not renege on their promises as previous Governments have. But this is not just about delivering the immigration system that the British people have voted for repeatedly; fundamentally, it is about public trust and accountability.

Put simply, a hard numerical cap on the number of visas issued each year would force Government and Parliament to have accountability for their immigration decisions. If we believe that the overall level of immigration is too high, we should set the cap accordingly, to ensure that technical mistakes do not produce the kind of migration wave that we have seen over the past few years. If we believe that the overall level of immigration is too low, we should be willing to say that publicly, to explain our reasons and to defend our record. Either way, we must be transparent. That will not rebuild public trust in our political system overnight, but it will represent a significant step in the right direction.

Tom Hayes: In a previous sitting, the hon. Lady talked to the hon. Member for Perth and Kinross-shire about humanitarian, and safe and legal routes. She highlighted the difficulty that humanitarian events often happen without warning or anticipation. Our country and others will respond as quickly as possible, and one response might be to open a safe and legal route. Do the Opposition new clauses take account of any possible

[Tom Hayes]

scenarios, recognising that it is hard to anticipate them? Is there any flexibility in the numbers that she provides for the visa category that would support people coming in who are refugees and people in genuine need?

Katie Lam: As the hon. Gentleman can read in the new clause, the wording does not state that the caps have to be set and cannot be revised; it is more than possible to come back to Parliament to change them. If such a situation arises—he is totally right to say that many of them are emergencies and may have been unforeseeable—there is no reason why that case should not be made to the British public and the cap changed. We are talking here about the need for that case to be made to the British public and for there to be transparency.

Some Labour Members have mentioned my time at the Home Office, where I was a special adviser. I worked primarily on national security, not on legal migration, but it was very clear to me from what I could see of the problems that all my colleagues were facing that most of Government—most Departments, and the Minister may be experiencing this now—are geared for higher levels of migration. For example, it is helpful for the Department of Health and Social Care to have high volumes of health and social care visas issued, or for the Treasury, which issues gilts based on our overall GDP, to have as many people here as possible.

The purpose of the cap would be to bring those conversations out into the open. If those Departments and Ministers wished to justify to the public, to the British people, why those numbers needed to be higher, that conversation should be had where the British people can hear it.

Tom Hayes: New clause 40 mentions the Secretary of State making

"regulations specifying the total maximum number of persons who may enter the United Kingdom annually"

within six months of the passing of this Bill. I assume that the hon. Lady is saying that a statement may be made providing for the annual cap per visa category, over, say, four or five years, and not that the Secretary of State would have to come back each year. Am I right or wrong in thinking that? Could she clarify that?

Katie Lam: The hon. Member asks a good question. I am not sure whether that would be explicitly decided on the face of the Bill; that could be something that the Home Office decided subsequently—whether it wished to set out future years or just the following one. In my initial response to the hon. Member, the point that I was trying to clarify was that that cap can, of course, be changed. Once it is set, it does not need to be set in stone for ever, but it is important that it exists and that the conversation about what it should be is had in front of the British public.

Chris Murray: It was interesting to hear the hon. Member for Weald of Kent setting out her argument articulately, and it was good to hear her say that she recognises that the last Government made a lot of mistakes on immigration, and that the evidence shows that. Sadly, although it is good to have that recognition, it does not seem as though very much has been learned from the Conservatives' experience in office, based on each of the new clauses that they have set out.

First, on the spousal visas, quite a lot of what is in new clause 35 actually exists already. There are already salary thresholds and things like that. It is unlike me to praise the previous Conservative Government on immigration, but, actually, across previous Administrations, both Labour and Conservative, very good work has been done on issues such as sham and forced marriages. What is new in new clause 35, which is a very strange and horrible power to give Ministers, is the ability to either restrict the nationalities that British people can marry or set thresholds on them. I have huge respect for my ministerial colleagues in the Home Office, but I do not think that they should be able to choose what nationalities I am allowed to marry. We got rid of anti-miscegenation laws in the 20th century; we do not want returning through the back door, through measures such as this. Most of all, this arbitrary figure of 7% is very strange; if I were to marry, say, an Australian or an American, I would have to hope that I was not in the 8th percentile of people to do that. That would be a very strange way for us to ask British citizens to live their lives and fall in love with people.

Opposition Members also made the point about how the legislation needs to look backwards and make sure that migrants are net fiscal contributors over their lifetimes. I would say, again, that that is not a realistic thing to ask Governments to do. We will only know whether we have been net fiscal contributors when we die, so we cannot really ask people to make those projections.

Finally, there is the numerical visa cap in new clause 40. Again, that is a gimmick that is not addressing the actual structural problems in the immigration system. First, it treats all migrants the same, as one big monolithic whole, yet we know that the impact of migrants on communities is different, whether they are spouses, students, doctors, lorry drivers or refugees.

If we are going to have this kind of cap, how do we prioritise? Will it apply throughout the whole of the year? How will businesses plan if they want to recruit from overseas? As my hon. Friend the Member for Bournemouth East said, what if emergencies mean that there are more people coming in? The last Conservative Government set a cap for tier 2 visas, then, of course, ended up hitting it and just exempting doctors and nurses from it anyway. Is it not inevitable that we will just be condemned to repeat history if we do that here? We have talked a lot about public trust in the immigration system and how that has been so deeply sapped by failures on immigration policy. The Conservatives had a net migration target of 100,000 a year, which they consistently failed to meet and had to revise. This proposal is just advocating that we repeat that exact mistake, but hoping for a different outcome, which seems bonkers to me.

Seema Malhotra: A number of the issues raised regarding these new clauses have already been debated in relation to other measures, so I will keep my remarks fairly brief on some of the additional issues.

4.15 pm

New clause 35 proposes a cap on the number of entrants as a partner, and it amends the immigration requirements for the partner of a person who is present

and settled in the United Kingdom. The provisions for family members to come to, or stay in, the United Kingdom are set out in the immigration rules. I gently make the point again that this is not the correct legislation for a debate about the requirements for partners.

The Government are clear that we support the right of people to fall in love, and we value the contribution that migrants make to our society. However, that must be balanced with a properly controlled and managed immigration system, and net migration has been too high for too long. We have also seen significant abuse on the routes, which should have been designed with some tighter safeguards under the previous Administration, the consequences of which we are only catching up with now as we seek to bring back order to our immigration system, as well as public confidence.

The Government have been clear that net migration must come down. Our immigration system welcomes people from across the globe to the UK. They may join a family here, and we think it is right to continue to enable family migration, for the reasons that a number of my hon. Friends have set out. British citizens and those settled in the UK are free to enter into a genuine relationship with whomever they choose. If they wish to establish their family life in the UK, it is appropriate they do so on the basis that they can support themselves financially, without recourse to public funds, and can participate sufficiently in everyday life that supports their integration into British society. To ensure financial independence, applicants on the family route must also meet either the minimum income requirement or adequate maintenance; the minimum income requirement is currently set at £29,000. We have discussed evidence bases already, and to ensure that we have a solid evidence base for any future change, on 10 September the Home Secretary commissioned the Migration Advisory Committee to review the financial requirements in the family immigration rules.

New clause 39 would place specific conditions on those applying for permission to enter, stay or settle in the UK, and remove the Secretary of State's discretion to grant leave outside the immigration rules. As I have said, the Government recognise and value the contributions that legal migration makes to our country, and the immigration system already controls access to benefits—the principle of no recourse to public funds is long standing. Most migrants become eligible to access public funds only when they gain settlement, or ILR. This approach reflects the need to maintain the confidence of the general public that immigration brings benefits to our country, rather than costs to the public purse.

In addition to those controls, subject to the visa route being accessed, individual migrants are required to meet conditions attached to that route—for example, the skilled worker route includes a minimum income requirement. The immigration system also needs to account for people in a range of circumstances. It cannot adopt a blanket approach that would capture, for example, those visiting the UK as tourists.

We have also extensively discussed foreign nationals who commit offences, so I want to turn briefly to new clause 40, which would impose an annual maximum number of persons who may enter the UK across all visa groups. The Government are clear that net migration must come down. The issue of arbitrary numbers has been rehearsed—not to great effect—over the past 14 years. Important work is under way to restore order to our immigration system, and we will set out that approach in the forthcoming White Paper, as I have mentioned. However, the Government have retained the duty to introduce a non-binding cap on arrivals on safe and legal routes, although I recognise that the new clause is much broader than that. The cap on safe and legal routes helps to manage the pressure on, for example, local authorities and ensure that the number of people coming here is in line with our capacity to receive them.

Matt Vickers: We think it is right that there should be limits on the number of people who can arrive here as a spouse or partner, a requirement on those bringing people to be able to support themselves, and a cap on the number of people entering the country. We wish to press the new clause to a Division.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 28]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 36

ACCESS TO ACCOMMODATION CENTRES: IMMIGRATION ENFORCEMENT

"(1) The Nationality, Immigration and Asylum Act 2002 is amended as follows.

(2) After section 33 (Advisory Groups), insert—

'33A Access for Immigration Enforcement

(1) The manager of an accommodation centre must permit a member of Immigration Enforcement, on request, to—

(a) visit the centre at any time; and

(b) visit any resident of the centre at any time.

(2) For the purposes of this section, "Immigration Enforcement" means the Immigration Enforcement team in the Home Office.'"—*(Matt Vickers.)*

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The new clause is vital to giving immigration enforcement the powers it needs to smash the gangs and tackle any criminality surrounding those who arrive here illegally. It would give immigration enforcement access to asylum accommodation centres. Currently, there are limitations around the detention of those arriving illegally on small boats. These limitations arise from a lack of statutory power, as well as a lack of state capacity to detain those arriving illegally.

[Matt Vickers]

In government, the Conservative Administration set up accommodation centres, which provided a plausible alternative to hotels. Because the centres were not used to make immigration decisions, in practice immigration enforcement officers did not find it possible to enter them for the purposes of examining, arresting and detaining persons residing therein for the purposes of refusal and removal.

Tony Smith, the former director general of UK Border Force, has powerfully argued that immigration enforcement teams must have clear authority to enter all places where asylum seekers are residing to examine, interview, arrest or detain them as appropriate. The Opposition agree wholeheartedly, for these would be proportionate powers for the state to use to enforce the law. Currently, centres housing thousands of small boat arrivals are not detention hubs. Instead, they are in effect halfway houses between the point of processing and where decisions can be made. Consequently, there is a substantial asylum backlog, which has created bottlenecks in the system. This is simply inadequate for everyone involved. It cannot continue, and it must stop.

The new clause therefore tries to end this predicament and failure in the system. Enforcement cannot be allowed to be bereft of action, unable to chase absconders who vanish into the ether without a trace. We need to empower officers to go into these sites to interview, arrest and detain where appropriate. That would allow faster decisions, faster refusals and quicker removals. The clause would not only mean a more efficient system that saves hardworking taxpayers' money, but help decimate the business model of the people-smuggling trade. In just the last two years, traffickers have accumulated hundreds of thousands, if not millions of pounds in profit. We all know the tragic consequences of people who have made this life-threatening journey.

We must, at all costs, undermine the business model of the people smugglers. That is the truly compassionate thing to do, so I am proud to support clause 36 because it eliminates gaps in our asylum enforcement system, ends centres being off limits and hence makes it much more difficult for people to get lost in the system. So we have to act, and act now. As such, clause 36 appears to be common sense, allowing our enforcement agencies the access that the average person would probably assume they already have. Does the Minister think an amendment or power such as this would be of operational benefit to immigration enforcement, and if not, why not?

Pete Wishart: I do not want to detain the Committee for long with this amendment, but this is just another abhorrent amendment from the warped imagination of the Conservative party. I do not know where they come up with things like this. They would have to be very creative and very cruel to propose something quite like this. The amendment would allow immigration enforcement officers to visit accommodation centres at any time without prior notice. Asylum seekers and other residents at these centres are often fleeing persecution, war and violence and will have suffered severe trauma. The constant threat of unannounced visits from immigration enforcement will create an atmosphere of fear, making it even more difficult for individuals to feel safe.

Allowing immigration enforcement to visit any resident at any time is a clear violation of privacy. It undermines their dignity and wellbeing and could lead to harassment or increased surveillance, further marginalising already vulnerable populations. Vulnerable individuals should not be made to feel constantly watched or threatened by authorities, especially when they are seeking safety and stability. The presence of immigration enforcement officers may discourage asylum seekers and migrants from seeking support or reporting issues of abuse, exploitation or trafficking. All this could do is undermine the very support structures designed to help individuals rebuild their lives in the UK.

The amendment lacks any clear safeguards or accountability mechanisms for how immigration enforcement would operate, and I urge the Committee to reject it. I hope it rejects the rest of the Conservative party's amendments, too.

Katie Lam: New clause 36 would give access to asylum accommodation centres to our immigration enforcement officers. Members of the public may be surprised to learn that this power does not already exist. It seems to me common sense that when a person has come here illegally and is being housed by the state, immigration enforcement—an arm of that state—should be able to enter that accommodation to carry out their work.

As my hon. Friend the Member for Stockton West rightly set out, these accommodation centres exist because the volume of those coming here illegally is such that it is not possible to hold everyone in immigration detention. There are therefore substantial numbers of people on immigration bail, and a reasonable number of those are held in accommodation centres. Immigration decisions are made elsewhere, but this is the criterion set out in current legislation. In our view, this is a quirk of the current system, and not how one would design it if starting from a blank page. These sorts of accommodation centres did not exist when our rules were written, and we think that this corrects that quirk.

I echo the question asked by my hon. Friend the Member for Stockton West: does the Minister think that this would be of operational benefit to immigration enforcement officers? If so, will she include it, and if not, why not?

Dame Angela Eagle: New clause 36 seeks to provide a right of access upon request for Home Office teams working within immigration enforcement to asylum accommodation centres in order to visit those centres and residents at any time.

4.30 pm

Immigration officers have powers to be granted a warrant to enter residential premises to search for and arrest someone for the purpose of detention and removal from the UK, and to search for relevant documents while there. In practice, immigration officers will often seek and obtain access to premises with the consent of the owner or occupier of those premises.

I note that the new clause makes reference to accommodation centres. I would welcome clarity from the Opposition on whether the intention is to attach this power specifically to accommodation centres. My reason for asking is that the Home Office has not stood

up any such centres in the form defined under the Nationality, Immigration and Asylum Act 2002. In other words, they do not exist. More widely, care needs to be taken to ensure that the use of the proposed power is managed appropriately. The access that the power provides in this new clause is very broad, and it applies to anyone working within the immigration enforcement directorate at the Home Office. That would include all civil servants working there, not just immigration officers who have the relevant training.

If the rationale behind the new clause is to remove a perceived barrier to the removal of migrants with no status in the UK, access to the premises in which an individual is residing is not such a barrier. Although there may be some constraints on immigration officers' entering asylum accommodation sites, including hotels, these are of a practical nature linked to risk assessments, public order, disruption, safety of staff and other residents, rather than lacking a statutory power of access. They already have a statutory power of access. Overall, the new clause is unnecessary, because immigration officers already have powers of entry to residential premises to administratively arrest someone liable to removal, and to search premises with a warrant if we cannot obtain consent, which allows for the safeguard of judicial scrutiny.

Matt Vickers: I think the public will be stunned to hear that immigration enforcement officers have challenges in accessing asylum accommodation centres, as outlined by Tony Smith, the former director general of UK Border Force. We will therefore seek to press the new clause to a vote.

Dame Angela Eagle: The new clause talks about accommodation centres, which do not exist. What does the hon. Gentleman mean by accommodation centres?

Matt Vickers: We have had provision for accommodation centres. We have had accommodation centres.

Dame Angela Eagle: But they do not exist.

Matt Vickers: I know there are 8,500 more in hotels now, but this was a measure that was put in place to reduce that hotel dependency, to stop us increasing the number of people in those hotels by 29%.

Dame Angela Eagle: I want to put something on the record before we vote. There is a specific meaning in law for the phrase "accommodation centres" under the Nationality, Immigration and Asylum Act 2002. Since that law was passed, no Government have actually stood up accommodation centres under that specific meaning. Therefore, the shadow Minister in his new clause 36 is asking for powers to enter something that does not exist.

Pete Wishart: While the Minister is on her feet, could she perhaps ask the Opposition spokesperson whether he actually means hotels?

Dame Angela Eagle: I thank the hon. Gentleman for that. I was trying to help the shadow Minister, because I thought he might be trying to talk about accommodation generally. If that is the case, we already have the powers we need to enter when and where we wish. This power is much broader, and we would not like to see it put into effect, which is why I hope the Committee will vote against the new clause.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 29]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 37

ASYLUM SUPPORT REPAYMENT SCHEME

"(1) The Secretary of State may by regulations make arrangements for asylum seekers to receive loans towards their maintenance and accommodation out of money made available by the Secretary of State for that purpose.

(2) Regulations made under subsection (1) may—

(a) specify the circumstances in which an asylum seeker would be eligible for or required to take out the loan;

(b) prescribe the maximum amount of the loan that may be made to an asylum seeker in any year;

(c) make provision as to the time and manner in which repayments of loans are to be made; and

(d) make provision for the deferment or cancellation of a borrower's liability in respect of a loan.

(3) Loans shall bear interest at such rates as may from time to time be prescribed by regulations made by the Secretary of State but so that—

(a) the interest (which shall accrue from day to day) shall be added to the outstanding amount of a loan; and

(b) the rates shall be such as appear to the Secretary of State to be requisite for maintaining the value of that amount in real terms.

(4) For the purposes of sub-paragraph (3)(b), the Secretary of State shall have regard to the retail prices index published by the Office for National Statistics, any substituted index or index figures published by that Office or such other index as appears to the Secretary of State to be appropriate."—*(Matt Vickers.)*

This new clause would enable the Government to treat asylum support like a student loan, with asylum seekers able to pay back the cost of support when they are in paid employment.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The Immigration and Asylum Act 1999 and the Asylum Support Regulations 2000 enable asylum seekers to obtain housing and funds to support themselves while they wait to find out whether they will get asylum. Their children can attend state schools and they are entitled to NHS care. We know that asylum seekers crossing the channel in small boats are often given bail and provided with asylum support. Those with no UK

[Matt Vickers]

address will be allocated asylum housing, or placed in asylum hotels or accommodation centres. The National Audit Office has estimated that the cost of this to the taxpayer was around £4.7 billion in 2023-24.

Tom Hayes: Is it the Conservative party's intention to build these detention centres, or accommodation centres, as part of its new immigration policy?

Matt Vickers: We have had many alternative means of accommodation, including hotels. Accommodation of asylum seekers in hotels is through the roof—it is up 29%, with 8,500 more people staying in them—but the situation I am describing applies more widely than any accommodation centre or hotel.

The £4.7 billion tab for 2023-24 covered beds, meals and NHS visits while the backlog ballooned.

Chris Murray: Will the hon. Gentleman accept that that number has "ballooned"—or gone up highly—not just in the aggregate but per asylum seeker? The hon. Gentleman wants to try to charge people, but his party let the system get completely out of control. Maybe it was the backlog that let it get out of control, rather than the kind of hotels that people were staying in.

Matt Vickers: The reality is that somebody is getting charged for it and paying for it, and at the moment that is the Great British public. There are ballooning costs. There are increasing numbers: illegal arrivals are up 28% since the election, there are 29% more people in hotels, and fewer of the people who arrive illegally are being removed. The number goes up, the cost continues to go up, and somebody has to pick up the tab. Making the person repay those costs once they are working—with, say, £10,000 over a decade—could claw back hundreds of thousands of pounds. That is not small change: it is classrooms built, potholes filled and nurses hired. Why are the Government content to let this sinkhole drain us dry when we could balance the books with a system that asks those who are successful to pay back some of these costs?

In his evidence, Tony Smith highlighted the knowledge that such support is available as a pull factor that encourages people to cross the channel. We share Tony Smith's view that making it clear that the costs of asylum support and accommodation will be recovered once the applicant is economically active could help to disincentivise future crossings. That is why we have tabled new clause 37.

The proposed new clause would enable the Government to treat asylum support like a student loan, with asylum seekers able to pay back the cost of support when they are in paid employment. We believe that if someone's asylum appeal is granted and they are allowed to remain in this country and they are able to work, they should be required to pay back to the state the costs of their maintenance, as and when they are able. State support is not a right.

Tom Hayes: This may be our last sitting day; I say this in hopes that it is. Over the last few sittings, having not known the hon. Member for Stockton West, I have grown in admiration for him, because he has had to defend very difficult things from the previous Government. It has felt like he is a goalkeeper standing in front of goal without any gloves on, and balls have been hit at him from every direction, so I do have admiration for him. But this is frankly absurd—it really is bonkers. Is this the hon. Member's idea, or is it somebody else's idea that he is having to make a case for? I really hope it is the latter.

Matt Vickers: To the hon. Gentleman's electors and mine, these things come at huge cost. As we have set out, that money could be used by the people who pay in to the system, and have done for a very long time. We have drawn an analogy with student tuition fees and I think it is very relevant. I am grateful for the hon. Gentleman's well-hidden admiration in recent times, but I think this is the right thing to do, and I am well on board with it. State support is not a right, and if a person is able to contribute later by paying some of that back, we believe it is right for them to do so.

Katie Lam: We have spoken many times today, and over the course of this Bill Committee's proceedings, about the fundamental principles of fairness upon which we believe that our immigration system should be built. We have also spoken extensively about the generosity of the British state, and how much it costs to support those who, according to our rules, cannot support themselves. But that generosity, while admirable in what it says about our approach to our fellow man, costs the British taxpayer dearly. As my hon. Friend the Member for Stockton West set out, it costs many billions of pounds a year. It also causes additional pressure on infrastructure and public services, which is not covered by what we suggest here.

We consider that new clause 37, which would introduce the asylum support repayment scheme, is a totally fair way of proposing that people who come to this country are responsible for contributing for the services that they receive. That includes the accommodation that they live in. We do not see any reason why that should be viewed as a negative change, and we really hope that the Government include it in their Bill.

Dame Angela Eagle: New clause 37 would give the Secretary of State regulation-making powers to set out arrangements for asylum seekers to receive loans towards their maintenance and accommodation—but, as we have discussed in this Committee during scrutiny of the Bill, the costs of accommodating and supporting asylum seekers has grown significantly. The reason for that increase is that the Government inherited an asylum system under exceptional strain, with tens of thousands of cases previously at a complete standstill—the perma-backlog, which we have referred to on many occasions during our proceedings in the past few weeks—claims not being processed, and a record number of people having arrived on small boats in the first half of the year.

While immediate action was taken to restart asylum processing, we cannot resolve the situation overnight. It nevertheless remains our commitment to reduce the cost of asylum accommodation, including by ending the use of asylum hotels. The size of the existing backlog, particularly in appeals, means that we are forced to use

hotels in the meantime. That is not a permanent solution, but it is a necessary and temporary step to ensure that the system does not buckle under exceptional strain.

Increasing the speed at which asylum claims can be processed and dealt with is the best way of dealing with this issue of cost, in my view. I think on all sides we want to see the costs come down. We want to see a properly functioning immigration system that delivers fair, timely decisions and manages public funds. Hotel costs have actually dropped from over £9 million a day to under £6 million a day. Overall the Department is planning to deliver £200 million of additional in-year savings in 2024-25, and £700 million of savings against 2024-25 levels during the following financial year, on asylum costs. These measures, taken together, would represent a saving of over £4 billion across 2024-25 and 2025-26 when compared with the previous trajectory of spending.

The Home Office has a legal obligation, as set out in the Immigration and Asylum Act 1999, to support asylum seekers—including any dependants—who would otherwise be destitute: "destitute" is the word that people need to remember there. Asylum seekers can apply for accommodation, subsistence, or both accommodation and subsistence support when they are destitute. Once official refugee status has been given, the individual is able to work in the UK.

Although asylum seekers generally do not have the right to work in the UK while they are waiting on a decision about their asylum claim, there are some instances in which they can apply for permission to work. They are eligible to do so if they have waited over 12 months for an initial decision on their asylum claim, or for a response to a further submission for asylum, and they are not considered responsible for the delay in decision making.

In that context, the new clause proposed by the hon. Member for Stockton West is an interesting one. I would welcome clarification on how such a loan scheme would operate alongside or instead of the current system, and the details of any assessment of the practical or economic benefit of such a scheme. Further scoping would be necessary in order to establish whether it is a feasible option. As such, its inclusion in this Bill is premature.

4.45 pm

We are exploring a wide range of options to support ending the use of hotels for asylum seekers and reducing the significant cost to the taxpayer. We are open to interesting ideas, but it is far too early in the approach for us to have a new clause setting it out in this way in the Bill at this time.

Matt Vickers: The big question is "Who pays?". There is a huge cost here. I would never seek to get political about the political choices made with funding in recent times—I would not go into the winter fuel payment, or the increase in tuition fees. Tuition fees is an interesting comparator, though, because we ask those who are able to do so to contribute to the costs incurred in delivering them their education. We should be asking people who arrive in this country, who could go on to become very successful, to contribute to some of those costs.

Katie Lam: I welcome the Minister's response. Might she please commit today to a date by which the Home Office at least aims for all migrant hotels to be closed, as per her party's manifesto commitments? I also welcome what she had to say about bringing down costs. She is right to say that the best way to minimise the Home Office's bill for asylum accommodation is to process applications as quickly as possible. Where asylum applications are approved, though, most of those costs transfer to the welfare system, so I would be interested to hear her response on who in Government is currently responsible for tracking and understanding that cost.

Dame Angela Eagle: We inherited a system that was very siloed, where work was not really cross-departmental at all. One example that occurs to me is that the system dealing with all the legacy applications, which the previous Government embarked on dealing with at first-tier tribunal in 2023 and then boasted about having achieved. However, that was only the initial decision in the system; if it was granted, I suppose people felt lucky, but those who were not granted appealed the decision. While the Home Office, under the previous Government, congratulated itself publicly on dealing with that legacy system, many people were actually still in the system.

One important thing we have done since coming into government has been to begin working cross-departmentally to develop metrics on how to deal with an end-to-end system. We are not there yet, and we understand that costs can sometimes be transferred to other areas; that is why I am working closely with the Local Government Association, the Ministry of Housing, Communities and Local Government and the MOJ to try to get the system working more effectively end to end.

I cannot give the hon. Member for Weald of Kent a date on when hotels will close, but I can say that we are doing our best. Given the huge cost and the fact that the contracts for providing them that we inherited from the Conservative party are so expensive, it will certainly be in the interests of saving a lot of money to close them as soon as we can, and we certainly aim to do so.

Katie Lam: Again, rightly and reasonably, the Minister talks about lowering costs, but might she say a few words about fairness and the principle that this new clause seeks to speak to: should those who have lived in that accommodation, who have benefited from that provision by the state, ultimately pay it back, if they can afford to?

Dame Angela Eagle: The hon. Lady will have noticed that I have not dismissed the idea completely, but I do not think the idea is anywhere near a position where one could talk about how it might be practicable, and certainly it is not at a stage where one could consider putting it into primary legislation.

Matt Vickers: State support is not a right and, if a person is able later to contribute by paying some of it back, we believe it is right for them to do so. We wish to press the new clause to a Division.

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

The Committee divided: Ayes 2, Noes 14.

Division No. 30]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Forster, Mr Will	Murray, Susan
Gittins, Becky	Stevenson, Kenneth
Hayes, Tom	Tapp, Mike
McCluskey, Martin	White, Jo
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 38

LEAVE OUTSIDE THE RULES: CONSULTATION

"(1) The Secretary of State must, within three months of the passing of this Act, consult on reforms to arrangements for leave outside the Immigration Rules (LOTR).

(2) A consultation under subsection (1) must consider how best to ensure that LOTR is granted only in the most exceptional circumstances, in which a reasonable person would consider it unacceptable to refuse entry to the United Kingdom.

(3) Within 18 months of the passing of this Act, the Secretary of State must by regulations make changes to the Immigration Rules to implement the required reforms to LOTR."—*(Matt Vickers.)*

This new clause would require the Government to make changes to arrangements for leave outside the immigration rules.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

New clause 38 would require the Government to make changes to arrangements for leave outside the immigration rules. It would require the Secretary of State, within three months of the passing of this Act, to consult on reforms to arrangements for leave outside the immigration rules. The consultation must consider how best to ensure that leave outside the rules is granted only in the most exceptional circumstances, in which a reasonable person would consider it unacceptable to refuse entry to the United Kingdom. Within 18 months of the passing of this Act, the Secretary of State must, by regulations, make changes to the immigration rules to implement the required reforms to leave outside the rules.

We have tabled this new clause because we are concerned about the Government's response to the recent decision in the upper tribunal to allow a family from Gaza to obtain permission to come to this country using the Ukraine family scheme. The appellants were Palestinians who, at the time of the decision under challenge, were residing in al-Mawasi, the humanitarian zone of Gaza.

The first and second appellants were husband and wife, and had lived in Gaza since 1994. They were the parents of the remaining four appellants, who at the time of the decision were 18, 17, eight and seven years of age. The sponsor for the application was the first appellant's brother, who had moved to the United Kingdom in 2007 and is now a British citizen.

The first-tier tribunal declined the application and the decision was appealed. The main issues to be decided by the first-tier tribunal were whether there was family life under article 8(1) between the appellants and the sponsor in the UK, whether the respondent's decision interfered with any family life and/or any private life enjoyed by the sponsor, and whether any such interference was disproportionate.

The upper tribunal did not agree with the Home Office's argument that the first-tier tribunal judge had erred in finding that there was family life between the appellants and sponsor. It found that there was family life and that the Home Office decision not to allow the family leave outside the rules was a disproportionate interference with the family life of the appellants and the sponsor.

When the Leader of the Opposition challenged the Prime Minister about this particular case at Prime Minister's questions, he responded that he did not agree with the decision of the upper tribunal, and said that the Government were

"looking at the legal loophole that we need to close in this particular case." —[*Official Report*, 12 February 2025; Vol. 762, c. 249.]

The new clause makes a suggestion about what that "legal loophole" might be, but it is extremely important that the Minister is able to answer the following questions. Did the Home Office decide not to appeal the upper tribunal decision? If so, why? What is the legal loophole that the Prime Minister said the Home Secretary was closing? Can the Minister be extremely precise about that, please? Can she explain when the House will be updated on this issue? Finally, if there is a legal loophole to close, why is that not being done through this Bill?

Seema Malhotra: I find this a very interesting debate and an important one in a number of respects. New clause 38 would require a consultation on the Government's approach to the exercise of discretion to grant leave outside the rules in what any reasonable person would consider to be the most exceptional circumstances to warrant such a grant, with a requirement for a change to the rules to follow, to regulate on the basis of what discretion may have been exercised.

The rules set out the main purposes for which a person may enter or stay in the UK, and the requirements to be met for them to be granted permission to do so. Exceptional circumstances are already considered. The rules are intended to apply, and be applied, in most circumstances to ensure transparency and fairness between individuals, but the existing policy approach recognises that there are some circumstances that they simply cannot cater for, and it is in the most exceptional circumstances that consideration is given to leave outside the rules under the Immigration Act 1971.

A period of leave outside the rules would usually be granted for a short, one-off period of permission to stay, suitable to accommodate or overcome the exceptional circumstance, if compassionate or compelling grounds are raised in the individual case. A person may request an exercise of discretion. Factors considered may be related to, for example, emergencies, unexpected events, a crisis, a disaster, an accident that could not have been anticipated, or a personal tragedy. The Government will continue to consider where and when there is need to

exercise discretion outside the rules. By its very nature, that is considered only in the most exceptional of circumstances.

It is probably not appropriate for me to go into the case that the hon. Member for Stockton West raised, beyond what has been said in the House. He asked some very specific questions, and I am happy to come back to him with what I can in writing. It is important to say that this is not the correct legislation for a debate about the requirements for discretion to grant leave outside the immigration rules, nor is it the correct place to define the parts of immigration policy on which the Government should consult.

Matt Vickers: On that case and on the loophole, which Minister does not think is relevant to this legislation, what does she identify that loophole as, and why does she not feel that that broader issue is relevant in considering this Bill?

Seema Malhotra: The shadow Minister understands extremely well that the Bill is about ensuring we stop the criminal gangs and that it introduces new powers to do so. On other new clauses that he tabled, I have given the same response in relation to aspects of the immigration rules. This is not the correct legislation to define parts of immigration policy or to try to determine what the Government should consult on.

As I said, the Government continue to consider where and when there is a need to exercise discretion outside the rules. By its very nature, that is considered in only very exceptional circumstances. I have shared what some of those factors might be: unexpected events, a crisis, an accident that could not have been anticipated, or a personal tragedy. I am sure he understands those matters, considering that he has served in office.

Matt Vickers: This is a valuable and important debate because many people felt strongly about this issue. The decision in that case flew in the face of the values of the Ukraine scheme. It could undermine commitments to future such schemes, so it is of great consequence.

Katie Lam: I am a little confused by the Minister's stating that several of our amendments should not be debated with this Bill. I fully concede that she is more experienced than I am, but my understanding is that any amendment considered in scope can be tabled, debated and voted on. Given the fact that these amendments were considered in scope, I am interested in why she thinks it is not appropriate for us to discuss them today.

5 pm

Seema Malhotra: I thank the shadow Minister for her comments. I am not disputing that there can be a debate on them. What I am saying is that the Bill has a clear and defined purpose, and it would not be appropriate to extend it to be more than what it is designed to be when there are other mechanisms by which immigration rules are debated in the House.

Katie Lam: Might the Minister, for clarity, lay out what the Government consider the purpose of the Bill to be and, by implication, what its purpose is not?

Seema Malhotra: I thank the shadow Minister for asking what the Bill is about, but we are just at the end of scrutiny of it, so I am sure she is aware that it is about increasing powers, in particular, to be able to better tackle the criminal gangs that are undermining our border security and putting lives at risk. We are making sure that we have bodies such as the Border Security Command on a statutory footing. We have had many other debates in the House about this.

Matt Vickers: Often with amendments we want to bring things out into the light. One thing I have not quite heard is what the Government are doing in the light of the issues with the Ukraine scheme, in particular to prevent what happened in the case I mentioned from happening again. We have this big borders Bill coming through, which will hopefully be the answer to the world's problems and improve the situation, but are the Government doing anything about the misapplication of the Ukraine scheme to ensure that the case I mentioned will not happen again?

Seema Malhotra: The hon. Gentleman is right, and the Prime Minister laid out the view that it was the wrong decision. We do need to find a way to tighten up how Parliament understands the rules and how they are interpreted, but as I say, that scheme is not a matter for this Bill. We are at the very end of debating the Bill and now I am being asked what it is for. I am sure that the shadow Ministers do not want to go all the way through the line-by-line debate again. Suffice it to say that the matters they are seeking to extend the legislation to cover stray into broader aspects of immigration that in our view are not appropriate for inclusion in this Bill. There are other mechanisms for us to seek to debate and change immigration rules.

Katie Lam: I thank the Minister for responding to me earlier. The Opposition's view is that the various ways by which people come here illegally and stay is fundamentally important to smashing the gangs, and that leave outside the rules and the ways it may be abused are a big part of that. That seems to us to be part of the fundamental point that we are discussing. Will the Minister comment on that?

Seema Malhotra: The hon. Lady is right. I have raised a number of times during the debate we have had the ways in which we see routes abused; indeed, the way that routes have been designed has left them open to more abuse. We are now reaping the results of that, in terms of some of the measures and the tightening up that we are doing. She will be aware that we have raised this as a matter that it is important for us to bring under greater control as part of an immigration system that is fit for the future and more controlled, more managed and fairer, and the aspects that we believe can and should be considered for a future immigration system will be the subject of the immigration White Paper. I look forward to debating that with her.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 31]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 39

RESTRICTIONS ON VISAS AND GRANTS OF INDEFINITE LEAVE TO REMAIN

"(1) Within six months of the passing of this Act, the Secretary of State must by immigration rules provide for all visa grants, including spousal visas, to be conditional on the following—

(a) the requirement that the applicant or their dependents will not apply for any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules,

(b) the requirement that the applicant's annual income must not fall below £38,700 (or six months or more in aggregate) during the relevant qualification period.

(2) Immigration Rules made under subsection (1) must ensure that any breach of the conditions set out in that subsection will render void any visa previously granted.

(3) The Secretary of State is not permitted to grant leave outside the immigration rules or immigration acts.

(4) A person is not eligible to apply for indefinite leave to remain in the United Kingdom if any of the following conditions apply.

(5) Condition 1 is that a person is a 'foreign criminal' under section 32 of the UK Borders Act 2007.

(6) Condition 2 is that a person, or any of their dependents, has been in receipt of any form of 'social protection' (including housing) from the UK Government or a local authority, where 'social protection' is defined according to the Treasury's Public Expenditure Statistical Analyses, subject to any further definition by immigration rules.

(7) Condition 3 is that a person's annual income has fallen below £38,700 for six months or more in aggregate during the relevant qualification period.

(8) A person who has entered the United Kingdom—

(a) under the Ukraine visa schemes;

(b) under the Afghan Citizens Resettlement Scheme;

(c) under the Afghan Relocations and Assistance Policy; or

(d) on a British National Overseas visa,

is exempt from the requirements of Condition 2 and Condition 3.

(9) For the purposes of subsections (1)(b) and (7)—

(a) the condition applies only to earnings that have been lawfully reported to, or subject to withholding tax by, HM Revenue and Customs; and

(b) the relevant sum of annual income must be adjusted annually by the Secretary of State through immigration rules to reflect inflation.

(10) The Secretary of State may by immigration rules make further provision varying these conditions, including by way of transitional provisions."—*(Matt Vickers.)*

This new clause would place certain minimum restrictions on the granting of visas or indefinite leave to remain. It would require migrants to be self-sufficient and do not require state benefits, and would deny ILR to foreign criminals.

Brought up, and read the First time.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 32]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 40

CAP ON NUMBER OF ENTRANTS

"(1) Within six months of the passing of this Act, the Secretary of State must make regulations specifying the total maximum number of persons who may enter the United Kingdom annually across all non-visitor visa routes, with such regulations subject to approval by both Houses.

(2) The Secretary of State may by regulations also specify a maximum number of entrants for individual visa routes, subject to the overall total.

(3) No visas may be issued in excess of the total maximum number specified in subsection (1).

(4) Any visas issued in excess of the number specified in subsection (1) must be revoked."—*(Matt Vickers.)*

This new clause would provide a mechanism for a binding annual cap on the number of non-visitor visas issued by the UK.

Brought up, and read the First time.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 33]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 41

ASYLUM OR REFUGEE CLAIMS

"(1) This section applies to a person ('P') who has—

(a) applied for, or been granted, asylum or refugee status in the United Kingdom;

(b) appealed the refusal of asylum or refugee status in the United Kingdom; or

(c) made a claim to the Secretary of State that to remove P or require P to leave the United Kingdom, or to refuse P entry into the United Kingdom, would be unlawful under section 6 of the Human Rights Act 1998.

(2) If P returns to their country of origin—

(a) during any of the processes specified in subsection (1); or

(b) subsequent to receiving asylum or refugee status or otherwise being given leave to remain,

P must have any claims automatically discontinued, and any status previously granted revoked."—*(Matt Vickers.)*

This new clause would require the revocation of asylum or refugee status (or leave to remain) in relation to an applicant who returns to their country of origin, either subsequently or while their application is being processed. It would also apply to people who make an immigration human rights claim.

Brought up, and read the First time.

Matt Vickers: I beg to move, That the clause be read a Second time.

The new clause would require the revocation of asylum or refugee status, or leave to remain, in relation to an applicant who returns to their country of origin, either subsequently or while their application is being processed. It would also apply to people who make an immigration human rights claim.

If an individual has made a claim that being made to return to their country of origin would violate their human rights and put them in danger, then their choosing voluntarily to return to their home country would suggest that something does not add up. Fundamentally, no reasonable person would consider an individual's returning to their home country to be compatible with their claim for asylum in such circumstances. If a person needs to remain in this country because they have a legitimate fear of persecution in their country of origin, a return to that country of origin fundamentally undercuts that claim.

Pete Wishart: I have studied this measure closely. Conditions change within the countries that people leave, and asylum status and human rights records change accordingly. Is the hon. Gentleman trying to say that there is no reason whatsoever that an asylum seeker may go back to their country of origin and then come back to the UK? What about family emergencies? Surely the Conservatives are not so callous as to suggest that people cannot go back to their country of origin for a family funeral, for example.

Matt Vickers: People arrive in this country out of fear of persecution. People come from the most awful, extreme circumstances. That is the bar that we put to asylum. We allow people to come here to claim asylum out of fear for their welfare, and if they are happy to pack their bags and pop back for a break, then that is on them. I believe, and I think the public would believe, that if someone comes here claiming fear of persecution in their country of origin then they should not be going back. It is not an opt-in or opt-out—it is not a holiday. If they are coming here out of fear of persecution in that country then they should not be going back.

We have tabled new clause 41 in order to address a loophole that people can and do exploit. The new clause would uphold British fairness—a value that welcomes those in need but rejects exploitation. As Members from across the House know, the United Kingdom has supported over 20,000 Afghans since 2021 through the Afghan relocations policy and over 200,000 Ukrainians since 2022 via visa schemes, alongside our Hong Kong friends with British national overseas visas, backed further by £4.7 billion in asylum costs in 2023-24. These commitments reflect our readiness to help those with genuine cases—those fleeing real danger who have ties to Britain. The value of fairness demands a fair system that is not abused.

Tom Hayes: What would happen in a scenario in which somebody from Hong Kong went back in order to attend the funeral of their mother or father?

Matt Vickers: We are talking about all sorts of circumstances, and I am sure that every one of these things would be pushed to the max, with lots of discussion and debate. The idea here is the principle that if someone cannot be in a country because it would be to their detriment and damage their wellbeing, then they should not be going back. If it is such a security threat that they need to come to the UK for asylum—

Tom Hayes: To clarify, if a lady goes back to Hong Kong and is willing to entertain the risk in order to briefly grieve with her family and to bury her mother or father, she would lose her right to safe haven in the United Kingdom. Is that right?

Matt Vickers: People who claim asylum arrive here from some of the most terrible, awful circumstances—their life is threatened and they are at real risk. If someone is at that level of risk, on the balance of probabilities, they would not be going back. If someone fears persecution in the way that many of the people who get asylum in this country do, then they would not be returning.

Pete Wishart: We really cannot let them away with this, because it is just cruelty personified. Would the hon. Gentleman not make every effort and take every risk to return to his country of origin if it were the funeral of his mother or father?

Matt Vickers: I hear what hon. Members are saying, but in the current system we allow people to pop back on holiday. Is that acceptable?

Pete Wishart: It is not a holiday; it is a funeral.

Matt Vickers: I am talking about those circumstances. We have heard one extreme; at the other extreme, we have people claiming asylum at huge cost. That is not a cost to well-heeled people, in particular, but to British taxpayers, some of whom are struggling to get by, but are contributing to this country and this system, which pays out for various other things. We want to be generous.

[Matt Vickers]

We want to support the people who need that help. It is the right thing to do and, I have just outlined, we have done that. But we cannot allow that generosity to be abused; we cannot allow people to pop off on holiday back to wherever they came from and then come back. That is the principle that is at stake here. People out there feel that it is very unfair that people pop back, and use asylum here as something hotel-like. That is the other extreme. That is the abuse that we are seeing, and that is what the new clause aims to end.

Tom Hayes: Does the hon. Gentleman recognise that the Hongkonger population would be very disheartened to hear what he is saying? Does he think it is right for him to stick to what he is saying? Would it not be better to show some sympathy to that particular population who are here?

Matt Vickers: I show lots of sympathy. It is right that we have put all these schemes in place, and it is right that we are supporting these people in the way we are. I also think a little bit about what the British people would think about what I am saying, and the abuse they are seeing of these schemes that allow people to pop back to other countries for various reasons. The hon. Gentleman has given one extreme; I have given the other. I think that is a principle that the British public would be on board with.

5.15 pm

The value of fairness demands a system that is not abused. When claimants return to their origin countries after securing status, they undermine that support. The new clause would ensure that voluntary return means revocation, protecting a framework meant for the truly persecuted, not those gaming it. We should ensure that those who genuinely need refuge and support from the United Kingdom, and not those individuals who may want to misuse our generosity, are the first in line. This simple measure would help ensure that the system is fair.

I would be interested in the Minister's views on whether it is reasonable for someone who has made a successful human rights claim to stay in this country and to return to their country of origin at will and without consequence.

Katie Lam: Throughout our long history, Britain has been an unusually compassionate place. From time to time, people have come to this country to seek sanctuary from tyranny and authoritarianism elsewhere in the world. My county of Kent became home to many of the Huguenots who fled religious persecution in France in the 16th century. Indeed, Canterbury cathedral still hosts a French-language service every Sunday, in honour of those who came to this country in search of tolerance and religious freedom.

My grandmother came to Britain in 1937 at the age of 13, as a refugee from Germany. Her grandfather was a state senator and a fierce critic of the Nazis. When Hitler came to power, the whole family were stripped of their citizenship and several were arrested. After years imprisoned and various daring prison escapes, the family first made it over the border to Czechoslovakia, where they set up a resistance radio station broadcasting back into Germany. One night, that was raided by the SS and one of the operators was shot dead. They then fled to England and to freedom.

We should be proud of our history. There are so many Brits like me who would not be here and would never have been born without the past generosity of this great country. But as I said earlier, we must also be realistic about the very many ways in which our system can be exploited by the cynical and the sinister. There are, of course, people who come to these shores legitimately seeking asylum, but we must also be honest about the fact that not everyone who comes to this country and applies for asylum has a legitimate case for doing so. We can see that evidenced in the fact that not all claims are approved.

Too often, asylum is used as an immigration route for those who otherwise would not be able to come here. Our compassion is therefore exploited by those who are in no real danger at all, a sad truth made clear by the fact that many would-be asylum seekers regularly return home without issue. The bar to claiming asylum should rightly be high. People should be in serious danger in their home country to qualify. Government Members are right to say that the new clause might cause difficult and, in some instances, heartrending situations, but that in and of itself does not make it the wrong thing to do.

Last December, as I mentioned earlier when discussing our human rights legislation, a Turkish heroin dealer was allowed to stay in the UK after first seeking asylum here in 1988. Despite claiming that he would be persecuted in his home country, the man had returned to Turkey at least eight times since arriving in Britain. On one of those trips, he even got married to a woman with whom he had been having an affair, despite already being married with children in the UK. Nevertheless, he escaped deportation, as it was ruled that deporting him would interfere with his right to a family life. That kind of scenario is clearly wrong and contributes to the persistent feeling that so many ordinary British people have that our asylum system is broken and unfair.

Dame Angela Eagle: New clause 41 would require the revocation of protection status or leave, or discontinuation of asylum claims, where an applicant returns to their country of origin. The Government are in absolute agreement on the principle behind the new clause. Although we are committed to providing protection to those who genuinely need it for as long as it is needed, in accordance with our obligations under the refugee convention and the European convention on human rights, such protection status must be granted only when it is required. As such, I want to reassure Opposition Members that, under our existing policy, where an individual returns to their country of origin, we consider whether they have re-availed themselves of the protection of that country. Where that is the case, we seek to revoke their protection status under the appropriate provision set out in the immigration rules.

We are also clear that asylum claims may be discontinued and withdrawn where the applicant fails to comply with the asylum process, which includes leaving the UK before a decision is made on their claim. I hope Opposition Members are therefore assured that the immigration rules enable protection status to be revoked already and

applications to be discontinued where an applicant has returned to their country of origin. As such, new clause 41 is not required.

Matt Vickers: We wish to press the new clause to a Division.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 34]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 42

REMOVALS FROM THE UNITED KINGDOM: VISA PENALTIES FOR UNCOOPERATIVE COUNTRIES

"(1) The Nationality and Borders Act 2022 is amended as follows.

(2) In section 70, omit subsections (4) and (5).

(3) In section 72—

(a) subsection (1), after 'A country', for 'may' substitute 'must'.

(b) In subsection (1)(a) omit 'and' and insert—

'or,

(ab) is not cooperating in relation to the verification of identity or status of individuals who are likely to be nationals or citizens of the country, and'

(c) in subsection (1)(b), after 'citizens of the country' insert 'or individuals who are likely to be nationals or citizens of the country',

(d) omit subsections (2) and (3), and

(e) in subsection (4), omit from '70' to after 'subsection (1)(a)'.

(4) Omit section 74."—*(Matt Vickers.)*

This new clause would require the Secretary of State to use a visa penalty provision if a country is not cooperating in the removal of any of its nationals or citizens from the UK, or in relation to the verification of their identity or status.

Brought up, and read the First time.

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

The Committee divided: Ayes 2, Noes 12.

Division No. 35]

AYES

Lam, Katie	Vickers, Matt

NOES

Botterill, Jade	Mullane, Margaret
Eagle, Dame Angela	Murray, Chris
Gittins, Becky	Murray, Susan
Hayes, Tom	Stevenson, Kenneth
McCluskey, Martin	Tapp, Mike
Malhotra, Seema	Wishart, Pete

Question accordingly negatived.

New Clause 44

DUTY TO DEPORT IN ACCORDANCE WITH THE REFUGEE CONVENTION

"(1) The Secretary of State must seek to remove anyone who, based on Article 1F and Article 33(2) of the Refugee Convention, does not have the benefit of the non-refoulement provisions of the Refugee Convention.

(2) This duty does not apply in relation to persons who would face a real risk of capital punishment or extra-judicial killing or whose removal would contravene the United Kingdom's obligation under Article 3 of the United Nations Convention against Torture.

(3) If a domestic court or tribunal has ruled that a person's removal would not contravene subsection (1) and (2), the court or tribunal may—

(a) Consider whether removal would be contrary to the Human Rights Act 1998,

(b) But if it considers that removal would be contrary to the Human Rights Act 1998, the Secretary of State may seek the removal of that person, notwithstanding the Act.

(4) The Secretary of State may delay the removal of an individual where subsection (3)(b) applies, until the Grand Chamber of the European Court of Human Rights has ruled on the compatibility of that removal.

(5) The Secretary of State must argue before the European Court of Human Rights that the European Convention on Human Rights cannot be interpreted as preventing the removal of an individual if such removal is compatible with the Refugee Convention and the United Nations Convention against Torture.

(6) If the Grand Chamber of the European Court of Human Rights rules that the European Convention on Human Rights takes precedence over the Refugee Convention and United Nations Convention against Torture, the Secretary of State may decide to comply with that Grand Chamber decision.

(7) If the Secretary of State decides to comply with a ruling of the Grand Chamber, they must publish a quarterly report setting out the anonymised details of those individuals who could be deported subject to subsections (1) and (2) but have not been deported because of a decision by the Secretary of State to comply with a decision of the Grand Chamber of the European Court on Human Rights."—*(Katie Lam.)*

Brought up, and read the First time.

Katie Lam: I beg to move, That the clause be read a Second time.

This is a probing amendment tabled by the Father of the House, my right hon. Friend the Member for Gainsborough (Sir Edward Leigh), to tease out what he feels are important issues to discuss in the context of the Bill. I would like to make it very clear that the Opposition are neither supporting nor opposing this new clause. Ideally, my hon. Friend the Member for South Northamptonshire would have spoken to this new clause, but she has Parliament-related business elsewhere today, so I am standing in.

The background to the new clause is that various international treaties impose, or have been interpreted as imposing, an obligation on states not to send people back to a country where they would face harm. This is known as non-refoulement. However, not all non-refoulement obligations are the same, and there are important differences. The new clause seeks to tease out the differences between the ECHR on the one hand, and the refugee convention and torture convention on the other. One key difference is whether there are any exceptions to the principle of non-refoulement, which is

[Katie Lam]

to say: are there any circumstances in which someone can be sent back to a country where they would face a real risk of relevant harm?

Under the refugee convention, the obligation not to refoul is not absolute; it is subject broadly to two exceptions. The first of those is the article 1F exclusion from protection of the refugee convention. That exclusion applies to those who have committed war crimes, crimes against humanity, serious non-political crimes abroad and acts contrary to the purposes of the United Nations. The second exception is provided for in article 33(2), which concerns those who pose serious risk to the security of the host country and those who have been convicted of particularly serious crimes, and therefore pose a danger to the community of the host country.

As the UNHCR said in respect of article 1F exclusions, the rationale is that certain acts are so grave as to render their perpetrators undeserving of international protection as refugees. The Court of Justice of the European Union has said that its purpose is to maintain the credibility of the protection system, and as Professors Hathaway and Foster have noted, the realpolitik reason was that the drafters of the refugee convention were persuaded that if states parties were expected to admit serious criminals as refugees, they would simply not be willing to be bound by the convention.

The same is presumably true of the article 33(2) exceptions. It would be surprising if states would have been willing to sign up to a duty not to refoul if there were not that exception for those who were a threat to their countries. In 1987, the UN convention against torture came into force. It now has 173 states parties. Article 3 of the torture convention provided for an absolute non-refoulement rule in cases of torture.

Although the convention also dealt with cruel, inhumane and degrading treatments, states were careful to limit the absolute non-refoulement rule to torture. The result is that even if an individual falls in the scope of article 1F or article 33(2) of the refugee convention but would face a real danger of torture, they cannot be removed. It was felt by states that torture was such an absolute evil that the credibility of the international protection system would be undermined by preventing the removal of such individuals if they faced torture.

While the refugee convention and the torture convention both explicitly addressed non-refoulement, the ECHR did not. It prohibits states from engaging in torture or cruel, inhumane and degrading treatment, but it says nothing about refoulement. That is not surprising, as the ECHR was drafted at the same time as the refugee convention, and arguably it was felt that those issues were best addressed by the refugee convention. None the less, in the late 1980s, the Strasbourg court interpreted article 3 as prohibiting refoulement. It did so not just for torture, but for all forms of treatment contrary to article 3, and it held that the rule was absolute. As the court put it:

"The conduct of the person concerned, however undesirable or dangerous, cannot be taken into account."

The consequence is that the protection afforded by article 3 is broader than that provided for in articles 32 and 33 of the 1951 United Nations convention relating to the status of refugees. That interpretation by the Strasbourg court completely negated the careful balance struck by the international community with the refugee convention and torture convention.

The new clause posits that that interpretation threatens the legitimacy of international human rights law and that the conclusion by Strasbourg is the means by which that happens. The KM case provides a good illustration. KM was a police officer in the Democratic Republic of Congo. He entered the UK illegally in 2012 and applied for asylum. His application was refused by the Home Secretary on the grounds that he had been involved in torture. The upper tribunal upheld that finding and held that he should be excluded from protection under article 1F of the refugee convention. However, because of article 3 of the ECHR, as interpreted by the Strasbourg court, he could not be removed.

There are many more cases of serious criminals and terrorists—people who are a threat to those who live in the UK—who could be deported under article 33(2) of the refugee convention but cannot due to article 3 of the ECHR. In Saadi *v.* Italy, two Strasbourg judges wrote that they would not be surprised if some citizens of Europe

"find it difficult to understand that the Court by emphasising the absolute nature of Article 3 seems to afford more protection to the non-national applicant who has been found guilty of terrorist-related crimes than to the protection of the community as a whole from terrorist violence."

Indeed, the Father of the House, were he here, would say that he suspects that the vast majority of Britons and Europeans would be baffled by that conclusion. That is also precisely the reason why the drafters of the refugee convention saw fit to include exceptions for criminals and terrorists: they knew that with rights come responsibilities, and that those who act in this way completely violate the social contract and cannot properly claim its protection. The interpretation that Strasbourg has given has, in the view of the Father of the House—at least, he would like us to debate this—weakened the legitimacy of the international humanitarian protection system.

The new clause, tabled by the Father of the House, seeks to find a solution to the problem—one that he says will restore common sense. The first step of the new clause would put a duty on the Secretary of State through careful litigation before our courts to identify cases of individuals who could be deported under the refugee convention and torture convention but would be blocked under the ECHR. He sees cases such as KM, which I discussed, as exemplars of that. The new clause would disapply the duty on the Secretary of State to comply with the Human Rights Act in such cases. That is to ensure that the Secretary of State can proceed to deport such people, and if they want to challenge their deportation, their recourse will be to bring a case to Strasbourg.

I know that the Father of the House would be comfortable with putting a duty on Ministers to still deport such individuals even the face of a Strasbourg judgment or rule 39, but he knows that the firm commitment that the Government have to international law mean that they will refuse to do so—although he also said that we should ask why they would privilege the ECHR over the refugee convention. Instead, the new clause would allow the Government to comply

with Strasbourg, while requiring them to argue with Strasbourg that it is wrong to interpret article 3 in a way that negates the provisions of articles 1F and 33(2) of the refugee convention.

Were Strasbourg to apply the principle of lex specialis properly, it should conclude that it cannot be unlawful for states to rely on articles 1F and 33(2) of the refugee convention in order to deport criminals. The Father of the House would be interested to hear from the Minister whether the Government would be interested in running such an argument before the Strasbourg court. Even were we to lose in such efforts to be reasonable, he feels that the new clause would allow the Government still to decide to comply with the flawed jurisprudence from the Strasbourg court; however, it would require that, were they to do so, they must be transparent with the British public and publish a report telling us who the criminals are whom we could have deported under the refugee convention, had the Strasbourg court's flawed interpretation of the ECHR not prevented us from so doing.

I will not press the new clause to a vote, and I repeat that I did not table it, but I look forward to hearing what the Minister has to say.

Dame Angela Eagle: I compliment the Father of the House on his ingenious approach to the slightly different signals, as the hon. Lady set out, that the international conventions, with their judge-made law, have left us with over the years. The new clause would create a duty to remove people who are not protected by the refugee convention, irrespective of our obligations under the Human Rights Act and the European convention on human rights as it has developed. The hon. Lady set out that issue extremely well.

We will always seek to deport or remove foreign nationals who pose a threat to the UK or whose behaviour is such that they are not entitled to international protection. Where the UK's obligations under the European convention on human rights prevent us from doing that, we will consider granting restricted leave, sending a clear message that the person is not welcome in the UK and will be removed as soon as possible. As the hon. Lady will remember, we amended the Bill to allow us to closely monitor people who pose a threat to the public but cannot be deported because of our obligations under domestic and international law. She will remember that that involves such things as curfews, and inclusion and exclusion zones.

The Government are clear: Britain will unequivocally remain a member of the ECHR, and work with international partners to uphold human rights and international law. Leaving would undermine protections for UK citizens and isolate Britain from its closest allies. The new clause would provide a mechanism to disregard a ruling of a court or tribunal that removal from the UK will breach a migrant's human rights. That would place the UK in direct conflict with the European Court of Human Rights. The law does not permit us to operate with one foot in and one foot out; we are either in, as signatories to the ECHR, or we join Russia and Belarus as countries that do not accept its jurisdiction.

The law does not permit us to operate in that way; nor can it be said that the ECHR takes precedence over the refugee convention. They are distinct treaties of international law that deal with different issues. The new clause would therefore create a situation that would be wholly unworkable. I know that the Father of the House will look at this in due course. He has had a good go. We do not think that the proposal is workable. I therefore hope that it will not be pressed to a vote.

Katie Lam: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Dame Angela Eagle: It is at this occasion, traditionally, that those who have shouldered the burdens under your expert guidance of the Committee, Dr Murrison, thank all the officials—both the House officials and my own—for their sterling work.

I thank all members of the Committee for their contributions, all of which have come from positions of principle and concern. We have had some robust debates during our time in Committee; we have even had a bit of fashion commentary. I think we will all be pleased to get out of Committee today, because the room is getting colder as the week goes on—goodness knows where we would be if we had to come back on Thursday to finish our deliberations. I hope that members of the Committee have enjoyed scrutinising the Bill and having these debates as much as I have.

Bill, as amended, accordingly to be reported.

5.35 pm

Committee rose.

Written evidence reported to the House

BSAIB38 Migrant Help

BSAIB39 Fatima House

BSAIB40 Runnymede Trust