

PARLIAMENTARY DEBATES

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OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MODERN SLAVERY BILL

Eighth Sitting

Thursday 11 September 2014

(Morning)

CONTENTS

CLAUSE 35 agreed to.

CLAUSE 36 under consideration when the Committee adjourned till this day at Two o'clock.

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The Committee consisted of the following Members:

Chairs: MR DAVID CRAUSBY, †MARK PRITCHARD

- | | |
|--|---|
| † Bradley, Karen (<i>Parliamentary Under-Secretary of State for the Home Department</i>) | † Lumley, Karen (<i>Redditch</i>) (Con) |
| † Bruce, Fiona (<i>Congleton</i>) (Con) | Mactaggart, Fiona (<i>Slough</i>) (Lab) |
| Burns, Conor (<i>Bournemouth West</i>) (Con) | Nokes, Caroline (<i>Romsey and Southampton North</i>) (Con) |
| † Burrowes, Mr David (<i>Enfield, Southgate</i>) (Con) | † Pincher, Christopher (<i>Tamworth</i>) (Con) |
| Champion, Sarah (<i>Rotherham</i>) (Lab) | † Smith, Chloe (<i>Norwich North</i>) (Con) |
| † Connarty, Michael (<i>Linlithgow and East Falkirk</i>) (Lab) | † Stunell, Sir Andrew (<i>Hazel Grove</i>) (LD) |
| † Durkan, Mark (<i>Foyle</i>) (SDLP) | † Teather, Sarah (<i>Brent Central</i>) (LD) |
| † Hanson, Mr David (<i>Delyn</i>) (Lab) | † Wilson, Phil (<i>Sedgefield</i>) (Lab) |
| † Hinds, Damian (<i>East Hampshire</i>) (Con) | Fergus Reid, Kate Emms, <i>Committee Clerks</i> |
| † Johnson, Diana (<i>Kingston upon Hull North</i>) (Lab) | |
| † Kane, Mike (<i>Wythenshawe and Sale East</i>) (Lab) | † attended the Committee |

Public Bill Committee

Thursday 11 September 2014

(Morning)

[MARK PRITCHARD *in the Chair*]

Modern Slavery Bill

Clause 35

GENERAL FUNCTIONS OF COMMISSIONER

Amendment proposed (9 September): 50, in clause 35, page 25, line 1, at end insert—

- “(c) the support offered to victims, including but not limited to, the operations of any Government agency and support offered in accordance with section 41 and section 42,
- (d) any other area which the Commissioner feels is relevant to identifying and preventing human trafficking in the UK or elsewhere.”—(*Diana Johnson.*)

11.30 am

Question again proposed, That the amendment be made.

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

Amendment 111, in clause 35, page 25, line 1, at end insert—

“(c) the promotion and protection of the rights of victims of human trafficking and slavery.

“(1A) The Commissioner must monitor the implementation in the UK of the Trafficking Convention, Anti-Trafficking Directive and other international obligations.”

The amendment extends the functions of the Commissioner beyond law enforcement and identification of victims and gives the Commissioner responsibility for monitoring the implementation of international obligations on modern slavery.

Amendment 51, in clause 35, page 25, line 4, leave out “permitted matter” and insert—

“matter pertinent to the prevention of human trafficking and forced labour in the UK or elsewhere”

Amendment 119, in clause 35, page 25, line 9, at end insert—

() Undertaking investigations and studies to monitor and identify trends in human trafficking and slavery;

() Requesting inspections to be carried out by statutory inspectors;”

The amendment extends the permitted activities of the Commissioner in carrying out the general functions.

Amendment 120, in clause 35, page 25, line 12, at end insert—

“, including relevant civil society organisations”

The amendment adds that the Commissioner may work with relevant civil society organisations.

Amendment 52, in clause 35, page 25, line 13, leave out subsection (3) and insert—

“(3) Apart from under subsection (5), the Secretary of State must not take steps or impose measures that may impair, or may appear to impair the Commissioner’s independence and shall ensure that the Commissioner is, to the extent the Commissioner is able, to determine, without limitation (other than as prescribed in this Act)—

- (a) the Commissioner’s activities;
- (b) the Commissioner’s timetables;
- (c) the Commissioner’s priorities, and
- (d) the Commissioner’s resources and funding.”

Clause stand part.

New clause 20—*General function and powers of Commissioner—*

“(1) The Commissioner shall—

- (a) monitor trafficking, slavery, exploitation, servitude, and forced or compulsory labour, the fulfilment of international obligations and the effectiveness of national legislation and policy;
- (b) issue proposals, recommendations, statements, opinions and advice relevant to the fight against trafficking, slavery, exploitation, servitude, forced or compulsory labour and to the realisation of the rights of victims;
- (c) engage with international organisations on trafficking, slavery, exploitation, servitude, forced or compulsory labour, child protection, and other relevant issues;
- (d) report annually to Parliament on trafficking, slavery, exploitation, servitude, forced or compulsory labour, and related issues;
- (e) periodically review the offences and related policy of trafficking and slavery to ensure that they reflect the UK’s obligations under the Trafficking Convention and Trafficking Directive and that other international instruments are consistently applied to all trafficked, enslaved or exploited persons;
- (f) periodically review public authorities’ compliance with their duties under international and national legislation and policy in relation to trafficking, slavery, exploitation, servitude and forced and compulsory labour; and
- (g) provide an impact assessment on the trafficking, slavery, exploitation, servitude, and forced or compulsory labour implications for government trade deals and trade and aid policy.

(2) The Commissioner is responsible for reviewing the practical implementation of the non-prosecution and non-punishment of trafficked, enslaved and/or exploited persons, and in doing so must have particular regard to women and children.

(3) The Commissioner shall, specifically in respect of victims—

- (a) encourage persons exercising functions or engaged in activities affecting trafficked, enslaved or exploited persons to take account of the views and interests of victims;
- (b) consult with and advise the Government on the views and interests of trafficked, enslaved or exploited persons;
- (c) consider the operation of complaints procedures relating to trafficked, enslaved or exploited persons;
- (d) consider any other matters relating to the services for, and interests and outcomes of trafficked, enslaved or exploited persons;
- (e) be responsible for reviewing the practical implementation of the provision in this Bill for the non-prosecution of and non-application of penalties to trafficked, enslaved or exploited persons and victims of forced or compulsory labour, and in doing so must have particular regard to women and children; and
- (f) publish a report on any matter in connection with trafficking, slavery, exploitation, servitude, and forced or compulsory labour considered by the Commissioner, which may include recommendations.

(4) The Commissioner must take reasonable steps to involve trafficked, enslaved and/or exploited persons in the discharge of his/her function under this section, and in particular to—

- (a) ensure that trafficked, enslaved or exploited persons are made aware of the Commissioner’s function and how they may communicate with the Commissioner, and
- (b) consult trafficked, enslaved or exploited persons, and organisations working with them on the matters the Commission proposes to consider.

(5) The Commissioner is not obliged under this section to conduct an investigation of the case of an individual trafficked, enslaved or exploited person. The Commissioner may, however—

- (a) investigate a particular case and/or intervene as a third party in a particular case where the case raises issues of public policy of relevance to other trafficked, enslaved or exploited persons; or
- (b) investigate any decision or recommendation made, or any act done or omitted, in respect of any trafficked, enslaved or exploited person.

(6) All public authorities must supply the Commissioner with such information in that person's possession or control relating to those functions as the Commissioner may reasonably request for the purposes of his function under this section (provided that the information is information which that person may, apart from this section (6), lawfully disclose to the Commissioner).

(7) Where the Commissioner has published a report under this section containing recommendations in respect of any person exercising functions under any enactment, he may require that person to state in writing, within such period as the Commissioner may reasonably require, what action the person has taken or proposes to take in response to the recommendations.

(8) The Secretary of State must not take steps or impose measures that may impair, or may appear to impair, the Commissioner's independence and shall ensure that the Commissioner is, to the extent the Commissioner is able, to determine, without limitation (other than as prescribed in this Bill)—

- (a) the Commissioner's activities;
- (b) the Commissioner's timetables;
- (c) the Commissioner's priorities; and
- (d) the Commissioner's resources and funding.'

Mark Durkan (Foyle) (SDLP): It is a pleasure to reconvene under your chairmanship, Mr Pritchard.

As our proceedings on Tuesday were interrupted when we were discussing this group of amendments, there is a temptation to rehearse points that have already been made in the style of, "Previously on this group of amendments..." I just want to say that new clause 20 reflects many of the concerns about the limitations of clause 35 that were raised by the hon. Members for Kingston upon Hull North, for Congleton and for Linlithgow and East Falkirk. In case members of the Committee have not detected the blindingly obvious, new clauses 19 and 20 are, in effect, the alternative clause proposed by the Anti-Trafficking Monitoring Group in its alternative Bill. As I indicated when we discussed new clause 19, it is a hanger to carry new clause 20, through which I am trying substantively to scope out the role of the commissioner to ensure that the role is not only to consider the issues of criminal enforcement and pursuit but to look much more widely at the response that is needed to the scourge of modern slavery, trafficking and exploitation in all its myriad layers and forms. I commend new clause 20, and I want to ensure that we can return to that issue.

I want to make a number of points on the commissioner without taking too much time, because there are countless other issues for us to address today. New clause 20 would provide the commissioner with more expansive powers, as the key aspect of victim involvement is missing from the Bill as it stands. There is also the question of qualification or protection against the role being turned into an "every case" ombudsman office, which it is not. Under the new clause, the office would be able to take and investigate cases on a judicious,

strategic and selective basis because of the issues involved. The new clause also does not have the limitations or the curbs on the potential role or performance of the commissioner that clause 35, as it stands, will have.

Other hon. Members have already made the point that clause 35(2) introduces limitations on, and almost editorial control over, the work of the commissioner by saying that the commissioner can report to the Secretary of State only "on any permitted matter". I will not rehearse the points that were usefully made by the hon. Member for Linlithgow and East Falkirk by pointing out the restrictions and qualification regarding a permitted matter. Subsection (3) also qualifies the commissioner's conduct and provides for the Secretary of State to authorise a matter to be reported on. Furthermore, the strategic plan, which must also be approved by the Secretary of State, can also specify that the commissioner may report on a matter.

Given that our knowledge and understanding of modern slavery in all its forms has changed and developed even in recent years, I think it is wrong to put such restrictions and curbs on the work of the commissioner. As other hon. Members, and notably the hon. Member for Kingston upon Hull North, have said, it will be strange if legislation that the Government intend should be world-leading creates an office that falls well short of those that exist elsewhere, such as the comparable ones in Finland and the Netherlands.

We want to make sure that the commissioner can work beyond the geographical confines of England and Wales set out in later clauses. My new clause 20 is deliberately silent on territorial matters. Subsequent clauses refer to public authorities that would have to co-operate with the commissioner, and the ones that the Secretary of State might specify seem to be confined to those in England and Wales.

I have tabled other amendments to those clauses that would make appropriate devolved opt-in possible in relation to specifying authorities outside England and Wales. In many cases trafficking and exploitation chains are not confined to one jurisdiction within these islands, never mind one jurisdiction or state territory at the international level. Even recent cases that we cannot go into now, for obvious reasons, show such dimensions. The investigation of matters detected as happening at Tilbury has led elsewhere, including to Northern Ireland.

In the course of the commissioner's examination of the wider performance of enforcement officers and support services—not just responding to the facts of detected crime but also prevention and encouraging people to come forward with evidence to help in the battle against modern-day slavery—it is important that they should be able to work across the jurisdictions I have mentioned.

New clause 20 and complementary amendments to subsequent clauses would provide openness. I want to prevent a situation in which the commissioner would have to say, "I can only look at what someone did in England and Wales. I cannot report on what relevant services did elsewhere. I cannot make any assessment about the quality of co-ordination, co-operation or engagement. I have no comment to make on the 'joined-upness' between jurisdictions, either in terms of further legislative changes that might be made or better meshing of information and operations between those jurisdictions."

[Mark Durkan]

It seems to me that those things are exactly what we want the commissioner to do. As I have said in other contexts, given the anti-trafficking measures in the Northern Ireland Assembly, and the strength of support for them, I do not believe that any of the parties there would say that my approach is untoward. They would see it as complementary to their efforts, and as common sense.

That is an issue about the scope and effectiveness of the role. We need someone who is able to take those matters forward. It is about not only the geographic scope but trying to take things a bit further than the overemphasis on enforcement issues. I do not underestimate the importance of those issues, which is why I, along with others, supported some changes to earlier clauses. If we are to fight modern slavery on all fronts we need to ensure that we address all other aspects of the problem. Other answers are being developed, some of which have already been proving themselves and others are being developed by many other services beyond those in various areas of enforcement.

The Government moved on the draft Bill to allow more about identifying and promoting best practice, but I do not believe that those changes go far enough. New clause 20 goes a lot further to ensure that best practice is not just confined to law enforcement agencies, nor does it face a geographic, jurisdictional trip wire. I commend the new clause to the Committee as a better way of dealing with the issues. That said, I recognise and support the strong arguments that have been made for the other amendments in the group by the hon. Members for Kingston upon Hull North and for Congleton. I fully sympathise with them and have tried to encompass some of those issues in these and subsequent amendments. If we are here in the joint enterprise of ensuring that we have world-leading legislation, we need to have a bigger and better clause than clause 35 and some of the other clauses on the role and general functions of the commissioner; the general functions seem to be limited enough.

I have one further point on editorial control. The Minister challenged the hon. Member for Linlithgow and East Falkirk when he said that there would be limits on what the commissioner could report on. She stressed that the qualification would relate to anything in the report that would jeopardise the safety of the person. Clause 35(5) refers to anything that

“would be against the interests of national security; might jeopardise the safety of any person, or; might prejudice the investigation or prosecution of an offence.”.

Those things—the interests of national security or the possibility of prejudicing a prosecution—are sometimes invoked in answer to public concerns, parliamentary questions or doubts, often without explanation. Why something has happened is often left as a mystery; people are left suspecting that something untoward is involved or that some ulterior interest or agenda is being satisfied, other than the interest of justice, and of the victims’ rights and positions. We should be mindful of that limitation of clause 35.

New clause 20 will not go to vote today but I want to reserve the capacity for us to return to the issue. I hope that we can do so without having to force a Division on clause stand part. Mr Pritchard, I look forward to your direction on that, as was my intention when I addressed

new clause 19. The role of the commissioner is hugely important. The Minister underlined that herself when she justified, in the early stages of our consideration, that the Government had gone ahead and essentially started advertising for the role of the commissioner. Given that the role is so important that it was actually advertised ahead of our deliberations, it is important for us to get the job description right.

11.45 am

The Chair: Before I call David Burrowes, can I ask everybody—and I will lead by example—to ensure that their cell phones are switched off. It not only disturbs the proceedings, but this sitting is also being broadcast and it disturbs that as well.

Mr David Burrowes (Enfield, Southgate) (Con): I wish to take part in the debate on clause 35, first in terms of stand part and then turning to amendments 119 and 120, which I support.

We are aware of the issue of conversion and dealing with those who may be reluctant to convert. I gently suggest that the Government could make their case more strongly in supporting the wide ambit and importance of the role of the commissioner and the functions that are referred to in clause 35. I say that because the Government’s response to the Joint Committee went further than originally set out in the draft Bill. They referred to the fact that

“On balance, the Government believes that a more tightly focused role is more likely to make a major, and speedy, operational difference to the fight against modern slavery.”

However, they then agreed to extend the commissioner’s role to include the

“focus on the effective and prompt identification of victims” with

“specific reference to cooperating and working closely with national and international partners.”

Therefore, the Government maintain the view that they want to have a commissioner who is focused on ensuring that we make the difference to the fight against modern slavery operationally, and on holding the feet of all the agencies involved to the fire—the Minister referred to that leads meeting where she expects the independent commissioner to hold everyone close to the fire to ensure that we increase those successful prosecutions. However, it is important that proper reference is made to how we achieve that. Indeed, the Bill itself makes the position clear by recognising that it is focused on enforcement, but included in that, and to ensure successful prosecutions of offences, the commissioner must encourage good practice.

Clause 35(1)(a) refers to

“the prevention, detection, investigation and prosecution of offences.”

We do not hear so much about the prevention part of the commissioner’s role. Prevention covers quite a wide ambit that goes beyond the traditional view and the case being made about the commissioner’s role in enforcement. The explanatory notes on clause 35 refer to

“good practice in the prevention, detection, investigation and prosecution...and the identification of victims of those offences.”

The explanatory notes sell us a little bit short because they then say

“In practice the Commissioner will therefore focus on the effectiveness of the law enforcement response in England and Wales to encourage effective investigations leading to successful convictions of modern slavery cases.”

Of course that is the focus of the commissioner, but to enable that focus to ensure that we have the effective law enforcement prosecutions, we need to look at the functions of the commissioner.

Alongside the welcome introduction of an anti-slavery commissioner, we need to focus on the operational level, and to recognise the strategic and long-term level as well. I hope the Minister can reassure us that clause 35 properly enables the undertaking of support for conducting research. Indeed, subsection (2)(c) refers to the

“undertaking or supporting (financially or otherwise) the carrying out of research.”

The point is made that research is part of the function of the commissioner. What will that research entail? Will it be a study or investigation of the bigger picture of modern slavery in this country and how it reflects European international practice?

The evidence review chaired by the right hon. Member for Birkenhead (Mr Field)—we all pay tribute to his great work—made a number of recommendations about the anti-slavery commissioner. It said the commissioner should focus on collecting and analysing data about modern slavery and on monitoring

“contemporary and emerging trends such as the role of the internet in coercing potential victims of modern slavery.”

For the commissioner to ensure that there is an effective law enforcement response, they must be able to gather research and monitor trends, including the role of the internet. Amendment 119 would give them that power.

The amendment highlights the importance of having a wider perspective. The anti-slavery commissioner will be uniquely placed to draw on the experience of front-line officers, investigate and map emerging trends and compare them with intelligence from other jurisdictions. They will be able to use and analyse that knowledge to inform and equip front-line officers, to understand and respond to the big picture, and to support the law enforcement response.

I am sure the Minister will reassure me that the reference in the Bill to carrying out research means that the commissioner should look at the wider, systemic aspects of modern slavery. I understand that it is not necessary to include in the Bill all the ways in which the research and monitoring can be carried out, but I want to ensure the Bill contains that understanding.

Amendment 119 would give the anti-slavery commissioner the power to request that statutory inspections are carried out, as my hon. Friend the Member for Congleton said. Plainly, the commissioner will not be able to usurp the important statutory role that inspectors play, but they will need to receive important information, and, in their unique role, they may raise concerns about things that warrant further investigation and statutory inspection. That power is particularly relevant to our aim that the commissioner promotes good practice in the identification of victims. The Government accepted that the commissioner should have that additional remit. That power has particular traction when it comes to research on migrant women in prison or immigration detention centres. My hon. Friend the Member for

Brent Central may wish to expand on that point, because our cross-party inquiry revealed that a high number of trafficked women have not been identified by the institutions that they are in because the way detention centres operate is not conducive to their revealing that they were trafficked. My hon. Friend the Member for Congleton said that a request from the commissioner to Her Majesty’s inspectorate of prisons about prisons’ ability to identify victims of trafficking could help to promote good practice and improve the level of identification.

Sarah Teather (Brent Central) (LD): I thank the hon. Gentleman for raising that issue. The Minister may not be aware that he and I serve on a cross-party parliamentary inquiry looking at immigration detention. In our first hearing, we heard from a gentleman who had been trafficked and was held in Colnbrook for three and a half years. He found it extremely difficult to get people to understand that evidence, and it was extremely difficult for him to leave detention. Therefore, it is not only female victims of trafficking who find themselves stuck in detention.

Mr Burrows: That is a very good point. It shocked us all that he was in detention for three and a half years. We need to ensure that more is done, and the commissioner can play an important role in identifying victims. The Government have accepted that the commissioner should have that remit, and it is important that that is amplified. That role does not necessarily have to be in the Bill, but I hope the Minister will assure us that the commissioner will be able to hold all those feet to the fire, including not only at the leads meetings that the Minister spoke about but in other bodies that are involved in tackling modern slavery. We must ensure that we can more quickly and effectively identify victims of modern slavery.

Amendment 120 is about engaging with civil society. No one here would argue that we do not want to engage with civil society, and there has already been a lot of engagement with civil society on the Bill. The Minister has been very much involved in that and has heard from the non-governmental organisations, those on the ground who are the experts and know best what is happening.

It is also important to refer to other jurisdictions and countries that have an interest in what we are doing. The US State Department’s “Trafficking in Persons” report made a recommendation that is relevant to the anti-slavery commissioner. It recommended that the Government should

“establish an independent anti-trafficking coordinator to ensure assessments of anti-trafficking efforts are transparent and allow for NGO feedback to facilitate self-critical, comprehensive recommendations in each region.”

Subsection (2)(e) refers to consulting people. No doubt that will include NGOs, charities and so on. We have to engage constructively with those people because their expertise and practical knowledge is of immense value.

It is also worth recognising the importance of this not only for the law enforcement arm of the commissioner, but the identification of victims remit. We know from the last strategic assessment from the National Crime Agency that 65% of the potential victims identified through that assessment had not been referred to the national referral mechanism. That will be the subject of later debates.

[Mr Burrowes]

Understanding the full picture in relation to modern slavery, promoting best practice, identifying victims and investigating crime will require working with the NGOs—the people who can provide as much insight as possible into what is happening out there in relation to identifying victims, and also provide practical support in the long term. In many respects, that contact and that understanding has no immediate and direct connection to formal law enforcement or to the courts and those agencies traditionally involved, but it has a key role to play in the commissioner's remit of identifying victims. Amendment 120 offers the possibility of referring specifically to those civil society groups in the commissioner's role.

Sir Andrew Stunell (Hazel Grove) (LD): I remind the Committee that I said at an earlier sitting that I found new clause 20 attractive and that it mirrored my own thinking on where we should be going. I subsequently heard the Minister say that it might constrain the way that the commissioner operates, which I find a little difficult to take on board, bearing in mind new clause 20(8). Could the Minister explain the extent to which the very wide range of activities in the new clause would all be permitted under clause 35?

Clause 35(2)(f) refers to

“co-operating with or working jointly with other persons, in the United Kingdom or elsewhere.”

That might help the hon. Member for Foyle in relation to one part of the argument that he advanced. But there are other aspects of this which he has very properly put on paper. They reflect the wider range of activities that many of us in Committee, and certainly all of us on the Joint Committee, thought should be part of the commissioner's full role.

I hope there is not, but I detect that there may be, a philosophical difference between what the Minister thinks the commissioner should be doing and what the Joint Committee and I think the commissioner should be doing, which is taking a holistic lead across government and across policy areas on what is needed to end modern slavery. That is not confined to just getting the prosecution rate up. If the Minister can help me on that and show me that there is nothing in new clause 20 which is not already permitted or enabled by clause 35, I would be satisfied to some degree. That is the nub of the debate we are having on the matter.

12 noon

The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): I thank members of the Committee for tabling the amendments and new clauses we are discussing today and for their contributions to the debate, which has been thoughtful and extensive.

The proposals we are discussing seek to extend the role and independence of the anti-slavery commissioner. Clause 35 sets out the general functions and remit of the anti-slavery commissioner. The commissioner's general functions are based on two core, but broad, functions. The first is to

“encourage good practice in—
prevention, detection, investigation and prosecution of offences”.

The second is

“(b) the identification of victims of those offences”.

In performing those very broad functions, the commissioner can undertake a wide range of activities, including making recommendations to any public authority; undertaking or supporting research; providing information, education or training; consulting people; and co-operating with or working jointly with other persons both in the UK and elsewhere.

The commissioner will do that, not only by working with law enforcement agencies to strengthen their response to modern slavery, but by working with other front-line agencies and NGOs. Despite suggestions from some Committee members, we did actively listen to and consider all of the pre-legislative scrutiny Committee's recommendations. That is why we have amended clause 35, to make it clear that the commissioner has a fundamental role in the effective identification of victims, and that they should and must engage with international counterparts to strengthen our collective fight against modern slavery in the UK and abroad.

In practice, the commissioner will work with the police, the National Crime Agency, local authorities, the Border Force and NGOs, as well as a range of other bodies to ensure that modern slavery is prevented and, where it is detected, effective investigations and prosecutions are launched.

Our aim is for victims to be quickly identified and supported, the perpetrators tracked down and effectively prosecuted and for us to learn from this to drive a consistent and co-ordinated response that is spearheaded by the commissioner. In carrying out those functions, the commissioner will make reports to the Secretary of State on any permitted matter. A permitted matter is any matter that has been agreed and authorised by the Secretary of State, either through the strategic plan or any other matter so agreed.

The strategic plan will be agreed with the Secretary of State, a provision designed to ensure that the commissioner's activities remain aligned with their general functions and a coherent overall strategy to counter modern slavery. I am well aware that the anti-slavery commissioner may criticise Government and public authorities. It is absolutely correct that the commissioner should have that right, and I fully expect the commissioner to exercise it.

That criticism has a purpose: to support the fight against modern slavery. A partnership between the commissioner and the Secretary of State on the initial priorities in the plan will help ensure that even the toughest of reports are helping to drive real improvements. I am sure that our provisions on the making and laying of reports and strategic plans will be discussed in more detail when we reach clause 36, which sets out those provisions.

Having such a senior figure dedicated to tackling modern slavery and ensuring that law enforcement agencies do all they can to target and bring justice to those who seek to profit from the misery of others is vital.

Amendment 50 seeks to expand the role beyond law enforcement and the identification of victims to cover support for victims, including their advocates. A number of other proposals, such as amendment 111 and new clause 20, would have a similar impact. I entirely understand the sentiments behind the amendments. Supporting victims is a critical part of the Government's strategy and a priority focused on by the pre-legislative scrutiny Committee.

We will soon debate a series of measures to protect victims. However, I want to assure the Committee that the role we have set out is sufficiently wide to assist the commissioner in making a real difference both to catching criminals and to protecting and supporting victims.

Provisions setting out the general function of the commissioner are not over-prescriptive for the reasons raised in debate today and on Tuesday. We want the commissioner to have the autonomy to decide whom to consult and draw on, how they can best prevent and detect modern slavery and how they can work with front-line agencies to strengthen the identification of victims and support them to give evidence.

It would simply be wrong to attempt to dictate how we expect the commissioner to operate. That would unnecessarily constrain them.

Diana Johnson (Kingston upon Hull North) (Lab): I am listening to the argument the Minister is putting forward. I wonder, on the basis of what she just said, why she is not willing to accept amendment 50(d), which would add the words:

“any other area which the Commissioner feels is relevant to identifying and preventing human trafficking in the UK or elsewhere.”

That leaves it to the discretion of the anti-slavery commissioner to decide if it is something they need to look at. That would not narrow the scope; it would give the commissioner the opportunity to take up an issue they feel is of concern.

Karen Bradley: I thank the shadow Minister for her comments, and I will discuss the specifics of the amendments shortly. Our primary aim is for the commissioner to deliver a real change on the ground, quickly, that will help victims and prevent more people from becoming victims in the first place.

We have debated the offences in the Bill, and Committee members quite rightly raised the issue of the current low level of prosecutions and convictions. The biggest gap in tackling this terrible crime is probably our collective ability to track down the perpetrators and lock them up for a long time. I do not believe that the main reason for the low level of convictions is necessarily the detailed drafting of the offences. Historically, law enforcement agencies, public authorities and, indeed, many of us here have not focused sufficiently on tackling modern slavery. I know that some people in the room have dedicated their life's work to this, and I pay tribute to them, but too many people and agencies have not focused in that same way. I want to ensure that they do.

None of us has been aware enough of the problem. Before coming into this role, I was aware of modern slavery but frankly did not pay it enough attention. I want to ensure that is not something we are guilty of in future. We have not always appreciated the gravity of the abuse involved and have perhaps all been caught out by the complexity and hidden nature of the crime, which makes the effective identification of victims very challenging. That is exactly why the commissioner's role is specifically dedicated to tackling modern slavery in all its forms and to strengthening the law enforcement response, alongside improving the identification of victims through law enforcement agencies and all agencies that may come into contact with potential victims. We need a strategic leader who will influence front-line professions, including all those in law enforcement agencies, to make

tackling modern slavery in all its forms a priority. The role will have a clear focus and remit, ensuring that all those involved in identifying victims and bringing the perpetrators to justice do so effectively and efficiently.

The Government would be concerned if the commissioner focused on a general advocacy role rather than identifying key practical improvements, or if the role cut across other strategic roles such as that of the Victims' Commissioner. We do not want to create a role that duplicates that of other commissioners. The Victims' Commissioner has an important role in dealing with victims, including victims of modern slavery, and we will do victims a disservice if we just duplicate the role without looking at those gaps. In her evidence to the pre-legislative scrutiny Committee, the Victims' Commissioner said:

“I believe there is a danger of setting a two-tier approach for victims going forward. We need to work towards creating consistency for victims across the board and consideration should be given to the role”—

that is, the role of the anti-slavery commissioner—

“being aligned to my office to ensure a co-ordinated approach that supports and does not divide victims based upon the crime they suffer. Such a move would ensure that work could begin with immediate effect as the Bill passes through the legislative chambers therefore protecting and safeguarding many vulnerable people and preventing an unnecessary delay whilst a new, and indeed similar post to the Victims Commissioner is created.”

However well meant, I believe that a number of the amendments which aim to extend the commissioner's role would not ultimately help victims be identified and see justice done. What is really in the interest of victims is a focused commissioner who helps public authorities to identify victims early and put their abusers behind bars.

Mark Durkan: Does the Minister accept that many people who have worked most with victims strongly support the amendments and believe they would make a difference? Those people know a lot about this problem, from experience over many years, while she herself has admitted she has come to understand this problem more latterly.

Karen Bradley: I fully appreciate that all the amendments and suggestions we have had on the Bill have been put forward with the best of intentions. I have enjoyed and appreciated the contributions to our debates over the past couple of weeks, and we will continue to debate these issues. In making it clear to whomever is appointed commissioner, it is important that we make clear the role Parliament expects them to undertake.

However, we are in danger of duplicating roles that already exist in relation to victims—roles the Victims' Commissioner undertakes—which would be detrimental to our overall aim of making sure we protect victims by catching and convicting perpetrators. We need to make sure there is a balance in what we do. I fully appreciate the good intentions behind the amendments, but some may actually duplicate roles. Having two people doing the same thing, with nobody dealing with the gap we have talked about in so many of our debates, would do people a disservice.

I do not want to give the impression that the Government are unwilling to listen on this issue. The pre-legislative scrutiny Committee's recommendations have already

[Karen Bradley]

caused us to rethink and improve the commissioner's role. I continue to listen throughout all our debates, and I will take away and consider any sensible and practical improvements that could be made in the Bill or outside it, in the wider policy framework. It is important to recognise that we are working on a wider policy framework, and we need to look at what we can do through it.

Mark Durkan: The Minister refers to the different roles and posts. She said she wants to avoid overlap, and she also talked about possible gaps. Surely, however, under the added remit in many of the amendments, the commissioner would be responsible for making sure there were no gaps and that there were appropriate memorandums of understanding. That would be part of the recommendations they would make under the amendments.

Karen Bradley: I will come to my comments on the amendments and the new clause shortly. However, the roles of all the commissioners we have been talking about are comparable-ish, although I recognise that, in many cases, we are comparing apples and pears—statute allows their role to be broad. The statutes that set up those roles do not dictate what the commissioner or other body should or should not do; that is left to them.

We want the Bill and the commissioner to be future-proofed. I do not want to say in detailed legislation today what I think the commissioner should do. I appreciate that the hon. Gentleman's new clause is broad, but more issues could always arise. The commissioner will absolutely be a leading expert, so I want to leave them free to decide themselves how best to tackle slavery, without us dictating here today the appropriate way to do that.

Mark Durkan: Will the Minister give way?

Karen Bradley: I will, but then we should make progress.

Mark Durkan: Do the new clause and the amendments preclude anything by way of future-proofing that is not precluded by clause 35?

Karen Bradley: As I say, I will come to my detailed comments about the new clause shortly. The problem with this offence is that it constantly changes. We should bear it in mind that, whenever we try to have any form of—albeit non-exhaustive—prescription today, we potentially create problems for the future. Given that there is no need for prescription for any of the other commissioners—we have seen the way in which their roles have evolved—I do not want to turn around now and say, “This has been a success in the past. It has worked for other commissioners. But we don't think it is going to work for this commissioner.” That does not sit well with where we are as a country, in that we are just getting to grips with what this crime looks like and what it can mean.

12.15 pm

Diana Johnson: Will the Minister give way?

Karen Bradley: One final time.

Diana Johnson: I just want to be clear. Is the Minister saying that clause 35(1)(a) and (b) do not prescribe the role of the anti-slavery commissioner, because it seems to me that they prescribe its limits very clearly?

Karen Bradley: I am sure the hon. Lady would agree that the remit is broad. If we are saying:

“The Commissioner must encourage good practice in—

(a) the prevention, detection, investigation and prosecution of offences”

and

“(b) the identification of victims of those offences.”,

that is an incredibly broad remit, which we can then give the commissioner free rein within, bearing in mind that other commissioners perform other roles in Government. Within that remit, we are giving the commissioner free rein to do as they see fit to help us all to tackle this crime. Is it prescriptive? By dictionary definition it is, but it is an incredibly broad prescriptive list. Prevention of modern slavery offences could include many, many different actions and activities.

Diana Johnson: Will the Minister give way?

Karen Bradley: I did say that the last time was the final time, but because the hon. Lady is so polite, I will give way again.

Diana Johnson: I stress again that if we really are serious about saying to the anti-slavery commissioner, “If something comes up that they feel they must look at”, paragraph (d) in the amendment—

“any other area which the Commissioner feels is relevant”—

would allow the anti-slavery commissioner to have that wider approach. I still think the Minister's proposal is limited. It excludes support for victims and any other issue that might come up in future. As she said, this is a fast-moving area and issues might arise that we cannot think of today.

Karen Bradley: I was going to deal with that issue shortly, but let me do so now. The Bill does not dictate how the commissioner will undertake the broad remit set out in clause 35(1). We believe there is no need for a statement to that effect. It is clear from clause 35(2) that the Bill is not dictating how the commissioner will undertake his or her remit; it gives only a few high-level examples of what the commissioner would do. The commissioner absolutely has a role in encouraging good practice and identifying and preventing human trafficking in the UK, but it would not be appropriate for them to try and police the world. However, I recognise that co-operation with other jurisdictions is vital. I hope that covers the hon. Lady's point.

Michael Connarty (Linlithgow and East Falkirk) (Lab): Will the Minister give way?

Karen Bradley: This will be the final time.

Michael Connarty: I am not sure whether the Minister was involved in preventing the plumber I was waiting for from 9 o'clock this morning from arriving, but that was why I came late. The submissions I mentioned in

the last session were all from independent organisations, including two commissioners, who were clear that they wanted a much broader scope in the Bill. The draft from the Joint Committee, which I did not refer to in detail, was quite clear about it being much broader. The Minister is really toiling to answer the question asked by my hon. Friend the Member for Kingston upon Hull North. This is such a restrictive clause. It seems to say, "Leave it to the civil servants, who will advise the Minister to extend this remit by some osmosis, without putting it in the Bill", which means that there is a possibility it will never be extended, and we will have a restricted remit for the commissioner that will not function properly.

Karen Bradley: I thank the hon. Gentleman for his comments. I am not sure whether I am pleased to see him here fighting modern slavery or whether he should be saving the Union elsewhere, but I am always delighted to see him. I will come on to those points. He made points on Tuesday and we will discuss the matter further, but I feel that being prescriptive today, in a way that we do not need to, will just hamper whoever takes on this very important role.

The remit set out in clause 35(1) is very broad, involving "the prevention, detection, investigation and prosecution of offences" and "the identification of victims". That is an incredibly broad remit and I do not want then to dictate within that remit what the commissioner will do and how they will go about doing that. I do not want to dictate to the commissioner, nor do I want civil servants to do so; the commissioner is independent and I want them to make their own decisions.

It should be noted that the Modern Slavery Bill now includes two significant changes compared with the proposals set out in the draft Bill. First, the commissioner's role has been extended in subsection (1)(b) to focus on the effective and prompt identification of victims. This is essential both for the protection of victims and for effective prosecution. This change will help both to ensure that victims are identified quickly by front-line professionals, and to support the commissioner's overarching remit to encourage good practice in the prevention, detection, investigation and prosecution of modern slavery offences. Secondly, the role has been extended to ensure that the commissioner can co-operate with agencies and organisations in other jurisdictions to ensure a joined-up law enforcement response. Both these changes significantly improve the role in a way that retains a clear and unambiguous focus.

Amendment 119, tabled by my hon. Friend the Member for Enfield, Southgate, seeks to expand the commissioner's role to undertake

"investigations and studies to monitor and identify trends in human trafficking and slavery",
and to request

"inspections to be carried out by statutory inspectors".

While I fully understand the reasoning behind the amendment, it is not necessary to enable the commissioner to perform his remit effectively. Clause 35(2)(c) states that the commissioner can undertake or support

"the carrying out of research".

While the commissioner can undertake research, I point out that the commissioner is not designed to be akin to

a national rapporteur. They are different, and for a very good reason. We want to tackle specific issues we face here in England and Wales. As I have said, they will have responsibility for promoting good practice in the prevention, detection, investigation and prosecution of modern slavery offences.

My hon. Friend the Member for Enfield, Southgate asked whether internet usage research could be undertaken by the commissioner. It would be in the commissioner's remit to undertake research on new ways in which modern slavery offences are committed, such as the example of the use and abuse of the internet. This example could be relevant to the prevention or detection of offences, and for identifying victims.

My hon. Friends the Members for Enfield, Southgate and for Brent Central talked about the commissioner's role in identifying trafficked victims in immigration detention. The commissioner's remit includes,

"encouraging good practice in the identification of victims"

and detection of modern slavery offences. Identification of victims may take place in a variety of contexts, including in immigration detention. Any problems with victim identification in immigration detention would be in the commissioner's remit as set out in the Bill. The commissioner can also engage with statutory inspectorates and make recommendations for activity through his or her reports, as part of fulfilling the general functions of the role. In addition, the commissioner's role is not intended to act as an ombudsman or to examine individual cases. It would not be appropriate for them to direct inspectorates do so either. On that basis, I do not believe that the amendment is needed and hope that my honourable Friends will agree to withdraw it.

Amendment 51 and aspects of new clause 20 seek to allow the commissioner to produce reports on any issue that they think is relevant, rather than agreeing the focus of their activities with the Secretary of State. A number of Members have raised the issue of independence, suggesting that the commissioner's role is not sufficiently independent. I understand the reasons for the concern, but I believe the commissioner will be independent.

Amendment 52 and new clause 20 seek to provide the commissioner with the power to determine their own activities, timetable, priorities, resources and funding without reference to the Secretary of State. I understand the motivation for these amendments and I respect the independence of the new commissioner, but I do not believe they are practical, necessary or in line with other equivalent bodies.

On the commissioner's budget, I am not aware of any equivalent organisation that by law can set its own budget, without limit. That is not a basis for an efficient and effective role. While it is right that the commissioner has the ability to influence the organisations and agencies that are responsible for tackling modern slavery, they also have a responsibility to the taxpayers in this country and to Parliament.

As I have said previously, the commissioner will be supported by a small office composed of civil servants. The commissioner will play a key part in appointing appropriate individuals to ensure that they have confidence in their team. I do not believe that it is appropriate or necessary for the commissioner to appoint their own external staff through an independent HR service. Our approach is consistent with support arrangements for the Victims' Commissioner.

[Karen Bradley]

Amendment 120, tabled by my hon. Friends, seeks to include a reference that the commissioner may consult civil society organisations. I fully understand the reasoning behind such an amendment and have complete sympathy with its intentions, but I simply do not believe it is necessary. The commissioner already has the ability to consult with other persons as they see fit in carrying out their general functions. That includes working with civil society organisations. I hope that on that basis my hon. Friends will see fit to withdraw the amendment.

I believe that the role as set out will maximise the practical difference that the commissioner makes. The commissioner will set their priorities in consultation with the Secretary of State, who has responsibility for the police and the National Crime Agency. That will help to ensure a partnership with the commissioner that is focused on activities that are targeted and are the ones that require most attention, and it maximises the chance that the commissioner's recommendations will be looked at sympathetically, enhance the Government's programme to end modern slavery, and be implemented on the ground.

In this country, we already have well established victim care arrangements and are seeking to improve those further through the review of the national referral mechanism and the retendering of the victims care contract. The commissioner's role is deliberately focused on a specific gap that we have identified, and which we have discussed at length in Committee, in the law enforcement response and the ability of public authorities to identify victims. I do not wish to see that role diluted into a general advocacy role. I want to see a commissioner who has the authority and autonomy that they need to carry out their functions effectively, while ensuring that their remit is clearly focused. Given that, I hope that the right hon. and hon. Members will feel able to withdraw their amendments.

Diana Johnson: We have had a very useful debate about the role of the anti-slavery commissioner. I particularly welcomed the contribution from my hon. Friend the Member for Foyle. There is a compelling case for new clause 20. It is, as he described, a bigger and better clause.

There was also the contribution from the hon. Member for Congleton, who of course served on the Joint Committee and has a great deal of knowledge and experience. She has listened to the evidence about the role that the anti-slavery commissioner should have. Her concerns about data, statutory inspections and civil society, which are shared by the hon. Member for Enfield, Southgate, are valid. It was disappointing to hear the response from the Minister.

The hon. Member for Enfield, Southgate made a very worthy attempt to persuade the Committee that clause 35 as drafted would give the anti-slavery commissioner the widest possible role in looking at the problem of slavery and trafficking, but I still feel that amendment 50, which would add paragraphs (c) and (d) in relation to the functions of the commissioner, would help to show, when people were looking at the role, that we were concerned not only about the prevention, detection, investigation and prosecution of offences and the identification of victims, but about the support offered

to victims. It has been said a number of times by many members of the Committee that the support given to victims will be very important in ensuring that we see more prosecutions being brought, which is what every member of the Committee wants. Paragraph (d) would also give the commissioner the ability to take up issues that come to light in the future that we have not thought of today and allow them to do that job as effectively as possible.

Karen Bradley: I realise that I did not cover, in my contribution on new clause 20, whether there was anything in new clause 20 that I did not feel would be covered in the remit as we see it. I want to say on the record that the remit in the Bill is broad. It will allow the commissioner to take a lead on ending modern slavery by encouraging good practice in preventing future modern slavery offences, identifying current victims and prosecuting existing offenders. Therefore, although the remit has a law enforcement focus, I do think that it will allow for the leadership role that my right hon. Friend the Member for Hazel Grove and the hon. Member for Foyle wish to see. I hope that that helps to give them the comfort that they need.

Diana Johnson: I am grateful to the Minister for putting that on the record. My concern is that we are today legislating on clause 35—deciding whether this is a fit-for-purpose clause—and that it could be improved. The Joint Committee, when it took evidence on the matter, also thought that the clause could be improved and made suggestions about how that could happen.

The range of existing commissioners—for example, the Victims' Commissioner and the Children's Commissioner—will have areas in common but can work in partnership and ensure that all the bases are covered.

12.30 pm

I do not see why making it clear that the anti-slavery commissioner has a role in looking at the support offered to victims of trafficking and slavery and a wider remit to take up issues that they are concerned about would in any way mean that existing commissioners would be pushed aside or unable to do their job. It is all about working in partnership and co-operating across the different roles to ensure that we put the needs of victims and those who have been trafficked at the centre of the anti-slavery commissioner's role.

Karen Bradley: I am not sure whether I was clear enough, but I do not see the anti-slavery commissioner not working with other commissioners. I see them absolutely working with all of them, but I do not want the role of the anti-slavery commissioner to duplicate those of the other commissioners with the focus on something that we are already doing. I want the anti-slavery commissioner to fill the gaps that we have all talked about—public awareness, law enforcement agencies, training, the public sector identifying the signs—so that when a victim is seen, people will know that the anti-slavery commissioner is the person to go to and that that commissioner will work with the Victims' Commissioner, the Children's Commissioner and all the other commissioners to ensure that the right support is given to victims to ensure that we give them some hope for the future.

Diana Johnson: I am grateful to the Minister for setting that out. I am worried that we are constructing a narrow approach for the anti-slavery commissioner. If there is some overlap with the roles of other commissioners, that is no bad thing if it means that the concerns and needs of victims will be covered not just by one commissioner but by several. If a child has been trafficked they are obviously a victim and would also come within the anti-slavery commissioner's role. It is all to the good if there is joined-up thinking about how to deal with that. The definition in the clause is just too narrow and I will press the amendment to a vote.

Question proposed, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 8]

AYES

Connarty, Michael	Johnson, Diana
Durkan, Mark	Kane, Mike
Hanson, rh Mr David	Wilson, Phil

NOES

Bradley, Karen	Pincher, Christopher
Bruce, Fiona	Smith, Chloe
Burrowes, Mr David	Stunell, rh Sir Andrew
Hinds, Damian	Teather, Sarah
Lumley, Karen	

Question accordingly negated.

Clause 35 ordered to stand part of the Bill.

Clause 36

STRATEGIC PLANS AND ANNUAL REPORTS

Diana Johnson: I beg to move amendment 113, in clause 36, page 25, line 29, at end insert—

“(1A) When preparing the strategic plan the Commissioner must give consideration to any proposal submitted to the Commissioner from any Parliamentary Select Committee. If the Commissioner does not accept the Committee’s proposal the Commissioner must write to the relevant Committee explain the decision.”

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

Amendment 114, in clause 36, page 26, line 4, leave out “Secretary of State” and insert “Parliament”.

Amendment 107, in clause 36, page 26, line 12, at end insert—

“(8) An annual report can also include observations and recommendations as to the adequacy, efficacy and co-ordination of measures, policies and performance of relevant services including public authorities as specified in Clause 37 section 5 or under relevant devolved powers.”

Amendment 115, in clause 36, page 26, line 13, leave out subsection (9).

Amendment 116, in clause 36, page 26, line 18, leave out “Secretary of State may” and insert “Commissioner must consult with the Secretary of State and”

Diana Johnson: This group of amendments again relates to strengthening the role of the anti-slavery commissioner and Parliament’s role in looking at the

work of the anti-slavery commissioner and suggesting what work they might do. Amendment 113 would require the commissioner to give consideration to proposals by any Select Committee on work that it believes the commissioner should undertake. If the commissioner felt that such work was not appropriate, he or she should explain why not. Amendment 114 is designed to strengthen the role of Parliament by requiring the commissioner to lay his or her annual report before Parliament rather than before the Secretary of State. Amendment 115 would therefore remove the requirement for the Secretary of State to lay the report before Parliament. Amendment 116 is designed to deal with the situation that we discussed in our debate on the previous clause, whereby a report might contain matters related to national security, the safety of an individual or an ongoing investigation. The amendment would tidy up the provision by requiring the commissioner to consult the Secretary of State if such matters need to be addressed before the report goes to Parliament.

As I have said, the amendments are designed to strengthen the role of the anti-slavery commissioner, and to strengthen the role of Members of Parliament in looking at the work that is carried out. In recent times—certainly since I entered the House of Commons in 2005—the role of Select Committees has been beefed up by the election of Chairs, and the Committees have carried out important scrutiny of what is going on. At times, they come up with sensible suggestions and requests to Government about changes that should be made in legislation or policy. Over the past few days, for example, the Home Affairs Committee has been investigating the report on child sexual exploitation in Rotherham and recent events there, and it has already started to make recommendations.

If an important Committee, such as the Home Affairs Committee, comes across information or evidence that it believes to be important for the anti-slavery commissioner to look at, it should have an opportunity to request that the commissioner consider it. Out of respect to Parliament, if the commissioner decides not to investigate or put together a report, they should convey to Parliament the reasons why they have decided not to take any action. The amendments fit with our belief, which I think is shared by almost all Members of the House of Commons, that the power of Members of the House to deal with problems that come up must be strengthened. Members of Parliament should be able to ask commissioners and other bodies to investigate matters of concern. That is why we have tabled the amendments.

I emphasise the need, which the Bill already reflects, for Parliament to have access to the commissioner’s annual report at the end of each year. I believe that that report should be laid before Parliament. What does the Minister think about the fact that, according to the Bill, the annual report will be given to the Secretary of State and subsequently laid before Parliament? What does she believe will happen to the report? Will a Minister press the usual channels to ensure that it is debated on the Floor of the House? Does the Minister expect the Home Affairs Committee to hold evidence sessions about the contents of the report? I simply want to be clear about what the Minister thinks the report will receive in terms of parliamentary time and scrutiny, because that is important.

[Diana Johnson]

I also wanted to note that when the Joint Committee looked at the area of reports, it recognised that, as I referred to earlier, the Government were concerned that certain information that might cause problems—whether for national security, the safety of an individual or an ongoing investigation—should not be put into reports. However, in its report the Joint Committee referred to the fact that other jurisdictions deal with that issue in a different way; for example, in Australia, it is left to the anti-slavery commissioner to redact information that could cause issues for national security, and so on, and there is no need to go through the Secretary of State. Will the Minister comment on that?

Will the Minister also comment on what the Joint Committee said about the role of the independent reviewer of terrorism legislation? He or she can report on whatever they feel is appropriate without the need for a power for the Secretary of State to redact, like the one set out in the Bill. The independent chief inspector of borders and immigration can also put into their reports whatever they feel is appropriate and necessary.

I am interested to hear what the Minister has to say about the situation in Australia and the powers of the two independent officials I have mentioned. I am also interested to hear what she thinks Parliament will do with the reports, what options there will be for effective scrutiny and in particular whether Select Committees will be able to ask the anti-slavery commissioner to investigate matters of concern.

Sir Andrew Stunell: Briefly, I wish to ask the Minister what the scope of the strategic plans will be. For me, the two words that are relevant here are “permissive” and “exclusive”. It is obviously a good idea that the Secretary of State and the commissioner should have an agreed strategic plan of action and that that should be public and shared; there is a great deal of common sense in that and it is surely unexceptional. The question is whether the strategic plan can take account of changing circumstances and emerging factors that the commissioner may feel need either urgent attention or attention that is critical of the Government, if it appears that some aspect of policy is not delivering in the way that it should.

I hope I will get an assurance in the Minister’s response that the strategic plan is not intended and will not be used to limit the effective scope of the commissioner, if the commissioner sees the need to reach beyond what is written in the plan for that year.

Mark Durkan: I support the lead amendment, which was moved by my hon. Friend the Member for Kingston upon Hull North. Making provision for matters referred to the commissioner by Select Committee seems to me to be exactly in keeping with the spirit of future-proofing that the Minister talked about in response to the previous group of amendments. As she said, our understanding and knowledge of this crime and the necessary responses to it are going to change, and the fields of interest of Select Committees, whether as they are constituted now or as they may be in future, could bring aspects of the problem of modern slavery to their attention.

The Government have committed to making sure that all the arrangements work much better on a cross-Government basis; the amendment would ensure that

the parliamentary arrangements and input on these issues would match that commitment, so that the perspectives, interests and different angles of vision of Select Committees could be part of the cross-Government view, rather than that relying on what is decided or spotted by relevant Ministers and officials within different Departments. I therefore support the amendment.

12.45 pm

Building in references to Parliament would add a dimension of independence. The Minister has seemed reluctant to concede that independence in other wording. We have previously considered amendments that would have inserted the word “independent” into earlier clauses. In the last group of amendments, subsection (8) of new clause 20, which I tabled, specified issues to protect the obvious working independence of the Commissioner. I know that in the past the Minister has said, “Well, we have to be careful about using the word “independent” in ways that might be difficult”, but I do not accept that argument. The more that we can point to dimensions of independence, and input and interest other than just that of the Secretary of State, the better; that is key.

We cannot anticipate the debate that we will have on subsequent amendments that address the issue of supply chains, for instance. However, regarding the principle of independence and showing that these things will not just be controlled by Government, it is important that we do not have a future situation under this Bill and the work of the commissioner’s office—particularly if that office is going to scope itself out in the way the Minister suggested it would be able to do, even under the Bill—whereby Ministers are approached by particular companies concerned about how some issues are being handled, discussed, or reviewed, or even by particular countries, which might find themselves being named and dealing with issues and questions of enforcement and other practices in their jurisdictions, on the assumption that because this is a matter of law and is under Government control and the apparent control of Ministers, they can use Ministers to ensure that issues are not opened up in a way that would be uncomfortable for them.

If Ministers are approached in that way, the more that they are able to say that this matter is handled independently, that there are other dimensions of independence and that it is not for them to deal with, because these things are not under their choke lead, the better. And I say that not just in relation to amendment 113; it seems to apply to the other amendments that the hon. Member for Kingston upon Hull North has tabled.

Amendment 107, which I tabled, is basically trying to ensure that the annual report that it envisaged the Commissioner will produce will also include observations and recommendations about the adequacy, efficacy and co-ordination of the measures, policies and performance of relevant services, including not just the public authorities specified elsewhere in the Bill but public authorities that could be specified under relevant devolved powers.

The amendment recognises the need for us to ensure that the work of the commissioner is not simply confined to England and Wales, and Departments and agencies dealing with England and Wales, but rightly recognises the locus of the devolved authorities in determining what other agencies’ work and performance might be considered by the commissioner. And of course it is not necessarily saying that the commissioner would directly

look at exactly what is being done within Northern Ireland by any given agency. It is cast in a way such that the commissioner would look at the co-ordination of services between jurisdictions, and the issues of performance between jurisdictions, because those are areas where problems arise in other respects.

Those engaged in this crime are cynical and sophisticated enough to use and abuse various jurisdictional sensitivities, so that the patterns, features and facts of their crime are not fully or properly countered or detected by law, and of course we want to ensure that the commissioner is equipped to trace and track that criminal activity, and to exhort all improvement and effort against it.

This matter is also important, given the kind of things we have heard this week. Depending on what happens in the vote in Scotland next week, if we are talking about supersized devo-max for Scotland and additional devolution for Northern Ireland and Wales, we might find that there are even more services in which border issues arise in relation to jurisdiction and scope of effort. We want to ensure that the commissioner is properly able to address those issues sensibly as and when they arise. In our consideration of previous amendments, the right hon. Member for Delyn raised the position of the National Crime Agency in Northern Ireland, and the Department of Justice for Northern Ireland has proposed to meet those concerns by ensuring that the NCA's work will be properly Patten-proofed. The Department makes provision for the NCA to work with the permission of the Chief Constable—in other places, the NCA has the power to direct chief constables. The proposal qualifies the question of constabulary power, and so on.

The commissioner will be able to look at the work of the NCA, as an enforcement agency, in relation to these matters, but the fact is that some of the NCA's work on trafficking and other aspects of modern slavery in Northern Ireland will be contingent upon the NCA having the agreement and prior consent of the Chief Constable and the various memorandums of understanding that go with it. If that is how we seek to make progress on the issue, we need to ensure that we properly account for it in the legislation so that the NCA does not say, "Sorry, but we cannot answer that bit in our reply to the commissioner because we are not doing it under our own light. When we are in Northern Ireland, we are only doing it under someone else's light, and therefore we cannot say so." The commissioner might find themselves limited in what they can observe or recommend in that instance, so it is simply about ensuring that we are not giving planning permission for loopholes that we will later regret.

Karen Bradley: I am grateful to hon. and right hon. Members for tabling the amendments that we have debated this afternoon. The amendments before the committee seek to amend how the anti-slavery commissioner will develop and lay plans and report. The Bill contains provisions to enable the commissioner to produce strategic plans and to report in a way that will make a real difference in the fight against modern slavery. Those provisions are important and necessary aspects of the role.

Clause 36 sets out the requirements relating to strategic plans and annual reports to be produced by the anti-slavery commissioner. Once appointed, the commissioner must,

as soon as reasonably practical, prepare and submit a strategic plan to the Secretary of State for approval. The plan will set out how the commissioner intends to carry out his or her functions for the period of the plan. The strategic plan may cover a period of between one and three years. The period of the plan has been extended following a recommendation by the Joint Committee.

Diana Johnson: On the wording of the approval that is required from the Secretary of State, why was "agreement" not included in the Bill? Why does it have to be "approval"?

Karen Bradley: I will come to that in a moment.

Before the end of the period to which a plan relates, the commissioner must prepare a further plan for the period immediately following the current plan and submit it to the Secretary of State for approval. In practice, any plan submitted to the Secretary of State by the commissioner will be discussed between the two parties and agreed before being laid in Parliament. That will ensure that the commissioner and the Secretary of State have a clear understanding of the priorities of the role and how the commissioner intends to undertake their functions. The purpose of the strategic plan is to set out the commissioner's objectives and priorities for the period of the plan, to state any matters on which the commissioner proposes to report under clause 35(2)(a) and to state any other activities that the commissioner intends to undertake during the period of the plan in exercise of their functions. The commissioner will provide an annual report to the Secretary of State on the matters included in the strategic plan.

My right hon. Friend the Member for Hazel Grove asked about changes to the plan. The commissioner may submit a revised plan to the Secretary of State at any time. That could be if they believe that alternative activities need to be undertaken to, for example, deal with an emerging threat. The plan can be revised under clause 36(3), as circumstances change. The requirement for the Secretary of State's approval of the plan is to encourage and ensure a genuine partnership between the Secretary of State and the commissioner. If the commissioner feels that they should investigate a matter, the Secretary of State will typically agree to it, but it is important that the Secretary of State and the commissioner work to a joint agenda to make a real difference to the fight against modern slavery. Any plan or report must be laid before Parliament by the Secretary of State as soon as it is reasonably practicable after approving the plan or receiving the report. We listened to the pre-legislative scrutiny Committee and included that provision to ensure that any plan or report is laid in good time.

The shadow Minister asked about parliamentary scrutiny of the report. That would be like any other document presented to Parliament; it could be scrutinised in normal ways, which could be through a statement or an urgent question. The Select Committee could scrutinise it. I would not wish to suggest what the Home Affairs Committee should scrutinise; I am sure that the Chair of the Home Affairs Committee would be most cross to discover a Minister trying to do that. Opposition day debates, Back-Bench debates and Westminster Hall debates could be used. There are a variety of ways in which Parliament could scrutinise the report and I do not wish to dictate how that should be done.

Diana Johnson: I understand what the Minister is saying but, in the light of the fact that, annually, parliamentary time is given to a debate on the Floor of the House on the report of the Intelligence and Security Committee, and as so many Members are interested in trying to deal with this matter, does she think that a yearly parliamentary debate on the anti-slavery commissioner's annual report would be appropriate?

Karen Bradley: As a former member of the Procedure Committee, I know that it is not a good idea for Ministers to dictate how parliamentary business may or may not be used. Certainly, it would be like other debates and I am sure that the Backbench Business Committee and the Opposition day debates will be well used if it is felt that that is an appropriate use of time.

Before laying an annual report, the Secretary of State may redact any material that they think

“would be against the interests of national security; might jeopardise the safety of any person, or; might prejudice the investigation or prosecution of an offence.”

That is not to constrain the commissioner, but to build in the right checks and balances to ensure that national security is not compromised and individuals are not put at risk. The commissioner will be entirely independent and able to report freely on their findings, with the exception of redactions limited to those specific grounds. It is important that the commissioner has a clear work plan and reports on their activities regularly so that we can review progress and ensure that the role is adding value in our fight against this horrendous crime.

Amendment 107 aims to ensure that the commissioner includes in their reports any recommendations on the “adequacy, efficiency and co-ordination of measures, policies and performance of relevant services including public authorities”.

The amendment would ensure that the commissioner can report on areas where public authorities may need to improve their services to victims of modern slavery. In practice, that is exactly what the commissioner would be expected to do. The general functions set out in clause 35 allow the commissioner to promote good practice in

“the prevention, detection, investigation and prosecution”

of modern slavery offences and the effective identification of potential victims of modern slavery. All public authorities have responsibility to identify and support potential victims, and law enforcement authorities should make investigation and prosecution of modern slavery offences a priority. As the commissioner already has the ability to influence public authorities and make recommendations about how they could improve their service to potential victims, we do not believe that amendment 107 is necessary. I do not want to replay the devolution arguments that we discussed at length previously, suffice to say that I am committed to respecting those settlements and not amending the Bill at this point. With respect to the devolved Administrations and circumstances where an agreement is needed first, we are conducting extensive discussions to ensure that we can make the necessary changes as agreed by all devolved Administrations. I therefore hope that the hon. Gentleman will withdraw the amendment.

Amendment 113 seeks to ensure that the commissioner considers any proposal submitted to them by any Select Committee. I agree that a Select Committee may identify

an important issue of public interest in the remit of the commissioner. The commissioner already has the autonomy to consider what activities they should include in their strategic plan, taking into account representations and proposals from partners, including parliamentary Committees. I am sure the commissioner would take representations from parliamentary Committees seriously. Formally requiring them to consider any proposal put forward by any parliamentary Select Committee is simply not needed. Given that clarification, I hope right hon. and hon. Members will feel able to withdraw that amendment.

Sir Andrew Stunell: The Minister has made a sound point. Can she pick up my point about the exclusiveness of the strategic plan and the capacity to take on matters that arise?

Karen Bradley: I thank my right hon. Friend for his comments. I talked earlier about the ability to change the strategic plan, but may I come back to his specific comments later?

Amendments 114, 115 and 116 seek to change the way the commissioner will report by requiring them to report to Parliament while, as far as possible, removing the role of the Secretary of State. Before turning to the detail, I would like to highlight that it is right and proper that the Secretary of State has a role in ensuring that the commissioner's plan reflects the agreed aims and objectives to enable the fight against modern slavery to be successful. It is also right that the Secretary of State ensures that reports do not put individual safety, the success of a prosecution or national security at risk. Once the plan is agreed, the commissioner will be entirely independent and able to report freely on his or her findings with the exception of redactions limited to specific grounds, such as where material would be against the interests of national security. The Secretary of State has a critical role responding to any report to ensure that real change happens at the front line.

Amendment 114 removes the requirement for any annual report to be provided to the Secretary of State before being presented to Parliament. That is not necessary. If we compare it to the Dutch rapporteur, which has been referred to previously, they submit annual reports to the Ministry of Justice in the Netherlands and the Government then respond to the report and inform Parliament of their conclusions. We envisage that here the report would be submitted to the Secretary of State, they would take on board those comments, and we would ensure that redactions in the interests of national security and victim protection would be made. The report would then be laid directly before Parliament without the time or a Government response being prepared. Therefore, there would be a quicker response to a report to Parliament than there perhaps is under the Dutch system that we have heard about.

The shadow Minister asked about the commissioner redacting information themselves. The Secretary of State has a role in ensuring that national security, individual safety and prosecutions are not jeopardised. That is why it is for the Secretary of State to ensure any report does not contain such information. It is an important safeguard and mirrors protections relating to the chief inspector of borders and immigration.

Amendment 115 is consequential to 114. Amendment 116 amends clause 36(10) by placing the onus on the Commissioner to consult with the Secretary of State on redactions rather than the Secretary of State directly removing material. That is the point we have just discussed. During the pre-legislative scrutiny process the Committee raised concerns about the breadth of the Secretary of State's powers to redact material from reports. The provisions in the Bill changed to narrow the test so that redaction would only apply where it would be against the interest of national security, might jeopardise an individual's safety or might prejudice the investigation or prosecution of an offence. Given the limited circumstances in which material may be redacted,

the Secretary of State has an important role in ensuring that the role of commissioner does not have entirely unwanted, but potentially serious impacts on, for example, an individual's safety. On that basis, I hope right hon. and hon. Members will feel able to withdraw their amendments.

Ordered, That the debate be now adjourned.—(*Damian Hinds.*)

1.4 pm

Adjourned till this day at two o'clock.

