UK Parliament

HOUSE OF LORDS

Victims and Prisoners Bill

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Committee

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Committee (6th Day)

Relevant documents: 7th Report from the Delegated Powers and Regulatory Reform Committee, 1st Report from the Constitution Committee. Welsh Legislative Consent sought.

3.20pm

Amendment 133

Moved by

Lord Ponsonby of Shulbrede

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133: After Clause 38, insert the following new Clause—

"Major incidents: duty of candour(1) In discharging their duties in relation to a major incident, public authorities and public servants and officials must at all times act within their powers—(a) in the public interest, and(b) with transparency, candour and frankness. (2) If a major incident results in a court proceeding, official inquiry or investigation, public authorities and public servants and officials have a duty to assist—(a) relating to their own activities, or(b) where their acts or omissions may be relevant.(3) In discharging the duty under subsection (2), public authorities and public servants and officials must—(a) act with proper expedition, (b) act with transparency, candour and frankness,(c) act without favour to their own position,(d) make full disclosure of relevant documents, material and facts,(e) set out their position on the relevant matters at the outset of the proceedings, inquiry or investigation, and(f) provide further information and clarification as ordered by a court or inquiry.(4) In discharging their duty under subsection (2), public authorities and public servants and officials must have regard to the pleadings, allegations, terms of reference and parameters of the relevant proceedings, inquiry or investigation but may not be limited by them, in particular where they hold information which might change the ambit of the said proceedings, inquiry or investigation.(5) The duties in subsections (1) and (2) must—(a) be read subject to existing laws relating to privacy, data protection and national security, and(b) apply in a qualified way with respect to private law and non-public functions as set out in subsection (6), and(c) not be limited by any issue of insurance indemnity.(6) The duties in subsections (1) and (2) will be enforceable by application to the relevant court or inquiry chairperson by any person affected by the alleged breach, or the court or inquiry may act of its own motion. (7) Where there are no extant court or inquiry proceedings, the duties may be enforced by judicial review proceedings in the High Court."Member's explanatory statement

This new clause would require public authorities, public servants and officials to act in the public interest and with transparency, candour and frankness when carrying out their duties in relation to major incidents.

Lord Ponsonby of Shulbrede

(Lab)

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My Lords, there is an urgent need to introduce the duty of candour for those operating across public services such as policing, health, social care and housing. A duty of candour would place a legal requirement on organisations to approach public scrutiny—including inquiries and inquests into state-related deaths—in a candid and transparent manner. The duty would enable public

servants and others delivering state services to carry out their roles diligently, while empowering them to flag dangerous practices that risk lives.

By requiring openness and transparency, a statutory duty of candour would assist in creating a culture of change in how state bodies approach inquests and inquiries. It would give confidence to those individual members of an organisation who want to fully assist proceedings, inquiries and investigations but who may experience pressure from their colleagues not to do so. A statutory duty of candour would compel co-operation with proceedings, inquiries and investigations, thereby dismantling the culture of colleague protection in, for example, the police service.

The NHS currently has a duty of candour whereby there is no liability for breaches. The need for sanctions on a duty of candour was recently evidenced by the inquiry into deaths in Essex mental health services. Before the inquiry was converted into a statutory inquiry, the then chair had said that she could not effectively do her job and that only 30% of the named staff had agreed to attend evidence sessions—a key element of the duty of candour as put forward in the amendment, which would apply to all public authorities.

A duty of candour needs to apply to all public authorities to ensure an effective end to evasive and obstructive practices following contentious deaths. State-related deaths, particularly major incidents such as the Hillsborough tragedy or the Grenfell Tower fire, commonly involve many different public agencies, from local authorities to health services. Without ensuring a duty of candour that applies to all involved in relevant investigations, institutional defensiveness and delays will continue, and the fundamental purpose of such investigations—to prevent future deaths—will continue to be undermined. The original version of the duty, put forward in the Criminal Justice Bill, applies only to police officers. Do the Government agree that it is important that this is fixed, whether in this Bill or a future criminal justice Bill?

Institutional defensiveness has been found to be a pervasive issue in inquests and public inquiries. It causes additional suffering to bereaved persons, creates undue delay to inquests and inquiries, undermines public trust and confidence in the police and undermines the fundamental purpose of inquests and inquiries—to understand what has happened and prevent recurrence. Establishing a statutory duty of candour would go some way to addressing these issues.

In her 2017 review of deaths and serious incidents in custody, Dame Elish Angiolini concluded:

“It is clear that the default position whenever there are deaths or a serious incident involving the police, tends to be one of defensiveness on the part of state bodies”.

Additionally, the chair of the statutory Anthony Grainger inquiry, His Honour Judge Teague KC, concluded that it was his

“firm view that an unduly reticent, at times secretive attitude prevailed within Greater Manchester Police’s Tactical Firearms Unit throughout the period covered by the inquiry”.

Compelling co-operation with a statutory duty of candour would enable inquests and inquiries to fulfil their function of reaching the truth to make pertinent recommendations which addressed what went wrong, and to identify learning for the future.

Failure to make full disclosure and to act with transparency can also lead to lengthy delays as the investigation or inquiry grapples with identifying and resolving issues in the dispute at a cost to public funds and public safety. A statutory duty of candour would significantly enhance the participation of bereaved people and survivors, by ensuring that a public body’s position was clear from the outset, limiting the possibility of evasiveness. I beg to move.

The Lord Bishop of Manchester >

Share

My Lords, I rise to speak to this amendment to which I have added my name. I declare my interest as co-chair of the national police ethics committee.

Before turning to the amendment, I follow other noble Lords by recording the deep gratitude of both myself and many in the Church for the wisdom and friendship of Lord Cormack. On behalf of both the party he served and the Church he loved, over so many decades, Patrick wonderfully embodied that concept of “critical friend” which is so vital to the functioning of all institutions. We were all better for his wisdom and friendship, and we all learned much from his challenges. He may not have been subject to a duty of candour, but that never stopped him from being very candid in expressing his views. We will miss his contributions, here and elsewhere greatly.

The former Bishop of Liverpool advocated for a duty of candour in his report on the Hillsborough disaster, *The Patronising Disposition of Unaccountable Power*. That title tells its story. His report was produced over six years ago; a duty of candour was finally contained in the College of Policing's Code of Practice for Ethical Policing in the last two months, for which I and many others are deeply grateful.

The amendment would require public authorities, public servants and officials to undertake a duty of candour. By placing a general duty of this nature on a statutory footing, the participation of bereaved people and survivors in the justice system would be enhanced. Inquest describes an

"endemic culture of delay, denial and institutional defensiveness from public authorities and private corporations that bear responsibility for the health and safety of the public".

We do not always get it right in the Church, either.

As Bishop of Manchester, it fell to me to help lead my city and diocese in their response to one of the worst terrorist incidents on UK soil in recent years. I believe that we responded well—so well that we have been able to help other cities around the world that have faced similar tragedies since. However, when it came to learning lessons—discovering what had gone less well—we found ourselves hampered by the natural reluctance of public bodies to share their failings. This is not about finding guilty parties to blame; it is about learning from the events that happen.

A duty of candour would help to move the emphasis away from reputation management in the wake of crises, towards supporting victims, their families and survivors. I was delighted to learn that we now have such a duty in the code for policing, but it seems to me that exactly the same arguments apply to the other services involved in seeking to forestall or respond to major incidents. I contend that it is not enough for just the College of Policing to introduce this duty, although that is indeed a welcome step; we need a more general duty that extends to a far wider range of public bodies.

3.30pm

Baroness Brinton >
(LD)

Share

My Lords, I have signed the amendment and it is a pleasure to follow the noble Lord, Lord Ponsonby, and the right reverend Prelate the Bishop of Manchester.

The 2013 Francis report set out the failings of the Mid Staffordshire hospital trust, explaining exactly why there needed to be a duty of candour. It said:

"This was primarily caused by a serious failure on the part of a provider Trust Board. It did not listen sufficiently to its patients and staff or ensure the correction of deficiencies brought to the Trust's attention. Above all, it failed to tackle an insidious negative culture involving a tolerance of poor standards and a disengagement from managerial and leadership responsibilities. This failure was in part the consequence of allowing a focus on reaching national access targets, achieving financial balance and seeking foundation trust status to be at the cost of delivering acceptable standards of care".

That could apply to many of the issues that we have debated in this part of the Bill on major incidents. Regulation 20—the duty of candour brought in across the NHS in 2015—was defined as

"the volunteering of all relevant information to persons who have, or may have, been harmed by the provision of services, whether or not the information has been requested, and whether or not a complaint or a report about that provision has been made".

I will refer to that duty of candour in today's debate on a later amendment.

The CQC points out that we must remember that there are two types of duty of candour—the statutory and the professional—both of which

"have similar aims—to make sure that those providing care are open and transparent with the people using their services, whether or not something has gone wrong".

The implementation of the duty of candour covering the NHS applies to all healthcare providers, registered medical practitioners, nurses and other registered health professionals where there is a “belief or suspicion” that any treatment or care provided by them or their trust

“has caused death or serious injury”.

It is important for the NHS that it is for people who are registered, as it is with the police. If we ask to broaden it, and we do, we need to think carefully about who it should cover, because these people must be accountable—probably through registration.

Although it is a decade since the duty of candour was introduced, serious incidents, including death and injury, have continued in the NHS. Responsible hospital trusts and providers, as well as the individual regulated healthcare professionals, all know that they will be held accountable to this standard. As was described by the two previous speakers, it is a no-fault system which overcomes the old problem that saying sorry implies legal responsibility. It sets out a standard for declaring that there is a problem as soon as someone —anyone—is aware, and, where used correctly, it reduces the agony of victims and their families facing the block of institutional silence. Where it is not used, the CQC will inspect and consider why.

I support the proposal from the noble Lord, Lord Ponsonby, that the duty of candour should cover public authorities, public servants and officials at major incidents, and they should follow it. Just think if the NHS had used the duty of candour for victims and families of the infected blood scandal, or if the police had used it in relation to Hillsborough instead of blaming the fans, or if it had been used by the council and other bodies involved in the fire at Grenfell Tower. However, just as importantly, the duty of candour changes organisations so that, where possible, they think before the event, which can also prevent major incidents. Staff put the safety of people first in all that they do. It will not prevent all major incidents, but it can either reduce or stop the consequences of a potential disaster and make the aftermath much easier to live with.

The Parliamentary Under-Secretary of State, Ministry of Justice >

(Lord Bellamy) (Con)

Share

My Lords, I thank the noble Lord, Lord Ponsonby, and all noble Lords who have spoken to this amendment, which would place a statutory duty of candour on all public authorities, public servants and officials in relation to a major incident. This is, if I may say so, a modified version of the Public Authority (Accountability) Bill that was previously put forward, which is known as the Hillsborough law, so the underlying question here is: should we have in statute, in one form or another, a Hillsborough law?

There is much common ground between us. At no point are transparency and candour more important than in the aftermath of a major incident. As the Government said in their Statement of 6 December in response to Bishop James’s 2017 report, it is of the highest importance to combat

“unforgivable forms of institutional obstruction and obfuscation”

and the “inexcusable … defensiveness” of public bodies in “their own self-interest”. We agree with Bishop James, and indeed with the speakers today, that what is needed is a change of culture. The question is: what is the best and most effective route to bring about that change?

In essence, for the reasons already set out in the Government’s Hillsborough Statement on 6 December and the debate that day in your Lordships’ House, the Government do not believe that this amendment, applying to officials across the whole public sector, would be an appropriate or effective way to prevent a repeat of the failings that occurred in the aftermath of Hillsborough. First, as a general point, a central feature of a case such as Hillsborough, and other similar cases, is the imbalance of power between the authorities on the one hand and the bereaved on the other. The creation of the independent public advocate for a major incident—who will no doubt pursue the victims’ interests with terrier-like determination, I hope—will go a long way towards rebalancing that previous imbalance of power and securing equality of arms. I suggest that the institution of the IPA is in itself a lasting tribute to the Hillsborough families who have campaigned to ensure that no other families ever have to suffer in the same way.

In addition, still on the equality of arms point, the Government have removed the legal aid means test for exceptional case funding for inquests and will consult on expanding legal aid for inquests where an IPA is appointed or terrorist offences are involved. Cabinet Office guidance will reaffirm the expectation that legal expenditure by public authorities should not be excessive and should be published. Again, those matters should go a long way towards rebalancing the position between the various parties.

The second point, which I think the right reverend prelate the Bishop of Manchester was, in a sense, already making, is that the Government have already tackled directly the central failure in the aftermath of Hillsborough, which was a failure by the police. As noble Lords will be aware, in 2020 the Government introduced a statutory duty of co-operation for individual police officers to ensure that they participate openly and professionally with investigations, inquiries and other formal proceedings. A failure to co-operate is a breach of the standards of professional behaviour and could result in disciplinary sanctions, including dismissal.

In the Criminal Justice Bill that was introduced in November 2023, which I hope will be before your Lordships' House before too long, the Government are placing a statutory duty on the College of Policing to issue a code of practice relating to ethical policing. In advance of that, as has been mentioned, the Code of Practice for Ethical Policing, was laid in Parliament on 6 December under existing powers alongside the Government's response to Bishop James's report. That code, directed at chief constables, includes a duty to ensure candour and openness in the forces that they lead, to ensure that everyone in policing is clear what is expected of them and to provide confidence to the public that the highest standards will be met. That will be monitored, and chief constables will be monitored, by His Majesty's Inspectorate of Constabulary and Fire & Rescue Services and by local police and crime commissioners.

A further area of concern, which the noble Baroness, Lady Brinton, referred to, relates to the NHS. One notes the Francis report of some years ago, and there are continuing concerns, for example, around events at the Countess of Chester Hospital that are the subject of a statutory inquiry by Lady Justice Thirlwall. There is already a duty of candour on the NHS under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 that covers everybody who is registered with the Care Quality Commission. The Government are reviewing that provision to see whether it is working properly. There may be details to discuss around exactly who it should cover and collaboration with the General Medical Council and the Nursing and Midwifery Council to ensure that the professional standards march in line with the statutory standards—that may be a matter for investigation—but, in principle, in the NHS, those duties already exist.

The same is also true, in effect, for statutory inquiries under the Inquiries Act 2005, backed by criminal penalties. It refers to court proceedings, where full disclosure is required of all litigants under well-established principles, and a duty of candour is expected by public authorities, notably in judicial review. For inquests, coroners have powers under the Coroners and Justice Act 2009 to obtain documents, administer oaths and question witnesses. There is a Ministry of Justice protocol that was specifically revised following Bishop James's report, which requires government departments and lawyers to approach inquests with openness, honesty and full disclosure. A range of matters is already covered, so that leaves non-statutory inquiries, which the chairperson can request are converted into statutory inquiries in the event of obfuscation or non-cooperation. The Government feel that, in effect, the ground is already sufficiently covered in a very targeted way.

As for public servants working in central government, the Government have already reaffirmed their commitment to ensuring openness and transparency, as set out by my right honourable friend the Deputy Prime Minister when signing the Hillsborough Charter on 6 December 2023. The commitments in the charter are reflected in the existing framework of obligations and codes that apply to all those who work in government, such as the Civil Service Code, the Code of Conduct for Special Advisers and the Ministerial Code, to which we can add that public appointees to the boards of UK public bodies are subject to the Code of Conduct for Board Members of Public Bodies, which, in turn, incorporates the Nolan principles. Those matters, in the Government's view, reveal a quite comprehensive coverage of the issue that we are discussing.

The Government also consider that the amendment in its present form would be practically unworkable, applying as it does directly to all public officials who may be involved in the context of a major incident. It would apparently require maybe dozens of officials, junior as well as senior, to come to individual and autonomous views on whether, for example, a particular document was in scope, or irrelevant, or privileged or covered by national security or whatever. That could easily give rise to many difficult and conflicting views, making the whole process almost impossible to manage and drawing civil servants into conflict with each other and their employers.

For those essential reasons, the Government do not feel that this is an appropriate way forward. The speakers in this debate did not raise the Post Office, which in some ways colours a lot of the background to this. On that point, I can say that the proposed legislation on the Post Office is clearly being driven by some very serious incidents of prosecutorial misconduct in breach of existing rules. We do not need new rules; they did not follow the old rules.

3.45pm

Baroness Brinton >

(LD)

Share

It is good to see the Minister back in his place; we are pleased to have him back and I am very grateful for his comments. He mentioned the Post Office. I spoke about the importance of culture and making sure that things do not happen. While he is absolutely right on the legal side, there is an issue about the personal duty of candour that changes behaviour. Does he recognise that?

Lord Bellamy ›
(Con)

Share

Yes, the Government recognise that up to a point. What we are discussing is the right way to get there. The Government are not convinced that this statutory amendment is the right way, but there are other ways of doing it, through our codes and the provisions that we have for the NHS, the police and now the Hillsborough charter—the matters that have been mentioned.

I cannot go into specific detail on the Post Office, because we do not know what has happened, but the duty on a prosecutor to follow the codes that they must follow is a duty on that individual. I will not go any further than to make that comment.

Finally, in the spring, the Government hope to publish their response to a report by the Law Commission on reforming the common-law criminal offence of misconduct in a public office. We have to await that response to see whether it bears on the issues that we are discussing. With those points made, the Government recognise the sensitivity of and differing views on this matter. The Lord Chancellor's Oral Statement on 6 December said, very explicitly, that we will keep it under review. While legislation alone and the Government's view cannot ensure a culture of openness, honesty and candour, we do not rule out bringing forward legislation at some future point if we are persuaded that it is needed. The matter is still under reflection, from that point of view.

Lord Ponsonby of Shulbrede ›
(Lab)

Share

I thank all noble Lords who have spoken in this short debate. The noble Baroness, Lady Brinton, summed it up, really: while this is a probing amendment, it is about changing the culture and behaviour of organisations. I was talking to my noble friend Lady Thornton during this debate. She sits on an NHS trust and was saying that a culture is embedded in the way that the NHS practises its procedures now, which has come from it having a duty of candour for the last 10 or 11 years. The Minister made other points about addressing the same issues, so it is not as though one set of responses precludes another, such as the duty of candour.

Of course, I am pleased that the Lord Chancellor has said that he will keep an open mind on this and keep the matter under review. I acknowledge the Minister's points about creating the independent advocate role, the review of legal aid and individual professional standards, which are being looked at, but none of them precludes also having a duty of candour. That was the point made by all who spoke in support of the amendment. Nevertheless, I thank the Minister for his response and beg leave to withdraw Amendment 133.

Amendment 133 withdrawn.

Clause 39 agreed.

Amendment 133ZA not moved.

Clause 40: Compensation for victims of the infected blood scandal

Amendment 133A

Moved by

Lord Ponsonby of Shulbrede ›

Share

133A: Clause 40, page 37, line 15, after "must," insert "on behalf of the United Kingdom Government,"

Lord Ponsonby of Shulbrede ›
(Lab)

Share

My Lords, I too have signed Amendment 133A, which is a probing amendment and states that the Secretary of State will be acting on behalf of the United Kingdom Government when they establish the body to administer the compensation scheme for victims of the infected blood scandal.

Amendment 133B stipulates that payments made under Clause 40 must be fully funded by the Treasury. In anticipation of the noble Baroness, Lady Brinton, Amendment 134 is intended to probe how and when compensation payments will be made to victims of the infected blood scandal.

I acknowledge the letter that the noble Earl, Lord Howe, sent to us—and the constructive meetings we have had—advising that there may be future amendments coming forward on Report. For now, I beg to move.

Baroness Brinton >
(LD)

Share

My Lords, I start by recognising that one of the people who wanted to speak to this amendment is not in his place. The noble Lord, Lord Cormack, told me he was going to speak, and his death over the weekend leaves a large gap, not just in Parliament but for the victims of the infected blood scandal and their families, whom he supported.

He said in the Commons on 13 November 1989:

"No one can give back to these victims the hope of a normal life that was once theirs. No one can remove the uncertainty with which they and their families live from day to day—the uncertainty of when the bell will toll. If any group of people live in the shadow of death, they do. It is no wonder that their story has been described as the most tragic in the history of the NHS ... I hope that we shall have a full and good answer from the Minister, but whatever he says, unless he agrees to our request, the campaign will go on and we shall not go away."—[*Official Report*, Commons, 13/11/89; cols. 153-55.]

Patrick, we shall go on. May you rest in peace.

I thank the noble Earl, Lord Howe, for his letter, and for the meeting we had to discuss this amendment and Clause 40. I hope he will have better news for your Lordships' House today. It is a pleasure to follow the noble Lord, Lord Ponsonby, on Amendments 133A and 133B, tabled by the noble Lord, Lord Wigley, which talk about payments for the infected blood scheme being arranged on behalf of the UK Government and paid from the UK Treasury. It is right—this scandal has been going on for approaching 50 years, since long before devolution, and therefore it is inappropriate for Scotland and Wales to have to foot the bill for something that is clearly the responsibility of the UK Government.

Clause 40 of the Bill was an amendment laid by Dame Diana Johnson MP in the Commons and it won cross-party support in a vote. It requires the Government to establish a body to administer the compensation scheme for victims of the infected blood scandal. The clause is the original wording of the Infected Blood Inquiry's second interim report, recommendation 13, and incorporates recommendations 3 and 4.

My probing Amendment 134 was also laid in the Commons, but, unfortunately, there was no time to debate it. It would ensure that an interim compensation payment of £100,000 is made in respect of deaths not yet recognised—specifically ensuring that, where an infected victim died, either as a child or as an adult without a partner or child, their bereaved parents would receive the compensation payment. Where an infected victim has died and there is no bereaved partner but there is a bereaved child or children, including adopted children, the compensation should be paid to the bereaved child or children, split equally. Where an infected victim has died and there is no bereaved partner, child or parent, but there is a bereaved sibling or siblings, they should receive the compensation payment.

It should be noted that the wording is the original wording of recommendation 12 of the Infected Blood Inquiry's second interim report. It is also very helpful that both the Welsh and Scottish Governments have written to the UK Government to support the compensation in advance of the inquiry reporting in May. On 18 December last year, the Paymaster General, John Glen, made a statement raising expectations, but unfortunately provided no information on when a compensation body would be established, let alone when interim payments in respect of unrecognised deaths might be made.

Both Clause 40 and this amendment are only the latest attempts to move government—not just this Government but many Governments of differing political parties—into sorting out and paying the compensation that is due to these groups of people, whose lives over the last four decades have been severely affected or destroyed by acts of the NHS, and therefore also by the Government, which used infected blood to treat haemophiliac patients through factor 8, as well as for those receiving whole blood transfusions.

The numbers are grim. Just under 5,000 people with haemophilia and other bleeding disorders were infected with HIV and hepatitis through the use of contaminated clotting factors. Some unknowingly infected their partners. Since then, 3,000 have died. Of the 1,243 infected with HIV, fewer than 250 are still alive. Many thousands who had full blood transfusions in the 1980s and 1990s were infected with hepatitis. Some people may not even know that they were infected as the result of a transfusion.

I thank all the victims and family members who have written to me. I cannot do them and all the different campaigning groups justice in the short time today. They have been victimised time and again by the NHS and by Governments fighting them and all other victims over the years—sometimes, I am afraid, with lies and prevarication. I pay particular tribute to two indomitable women who are still campaigning after 30-plus years. Colette Wintle and Carol Grayson were part of a small group that in 2007 sued four pharma companies—Bayer, Baxter, Alpha and Armour—in the US, who had used contaminated blood from prisoners to make factor 8, which the NHS bought and used without any warning to patients and their families. The American judge acknowledged that the pharma companies had used infected blood but disallowed the case on a technicality, saying that the duty of care for patients in the UK lay with the NHS and therefore the UK Government. But the Government did nothing.

An independent and privately funded Archer inquiry, which reported in 2009, was followed by Theresa May setting up the full public inquiry, chaired by Sir Brian Langstaff. He has issued two interim reports, with the final report due in May this year. In the middle of all of that, Sir Robert Francis also completed a report on the structure of compensation, which was published in March 2022, with which Sir Brian agrees and which he has built into the recommendations of his second interim report. That report, published last year, is an extraordinary read. No Minister or official can ignore the clear language and recommendations, evidenced by witnesses to the inquiry, that show decades of government and NHS wilfully ignoring their responsibilities and lying to victims and their families.

The Government have also recently announced that Sir Jonathan Montgomery, as the chair of the group of clinical, legal and social care experts, will give the Government “technical advice on compensation”. Unfortunately, this has not helped their relationship with the victims. First, there is concern that this group will also slow down any process of compensation, and secondly, the chair, Sir Jonathan Montgomery, a well-respected ethicist, has links with Bayer, one of the four pharma companies that sold infected blood to the NHS.

Disappointingly, Ministers have recently said in Oral Questions that they will not start until the Government have considered Sir Brian’s final report. We know that it usually takes at least six months for the Government to formally respond to an inquiry report when it is published, so can the Minister tell us whether they will now change this and move swiftly to make the compensation happen, as Sir Brian recommends?

4.00pm

I want to end with the voice of these victims. It is too easy to talk about the history of the scandal without understanding the reality of their lives. Sir Brian’s inquiry heard Jason Evans’s experience, who was four when his father died from HIV. He said,

“it just marked every aspect of life. And, you know, I’ve now lived my dad’s entire lifespan and I’m sat here. So it’s blanketed my entire existence”.

When asked whether he had ever been offered counselling or psychological support, he said:

“No, never. And I think the thing that is particularly despicable to me is, okay, now I’m 31. But as a child … a four, five, six year old kid, how did I not have bereavement counselling? How was it never offered?”

Lauren Palmer e-mailed me. She says:

“Growing up I was a little sister to two older half-brothers in what seemed like a relatively normal family. Unknown to us, my father was co-infected with HIV and Hepatitis C via his Factor 8 … but my father had also regrettably infected my mother.

In 1993, when I was just 9 years old, both my father and mother passed away from their infections, within 8 days of each other … I was heartbreakingly separated from my two brothers … and my life and my family were completely torn apart …

It emotionally destroys me on a daily basis that both my parents' lives have not yet been recognised when others (rightly) have. The children and parents of victims are having to fight tirelessly, for decades to be discarded with countless 'empty promises' of responses from the government, which have no course for action, it is degrading and greatly disrespectful!".

Colette Wintle and Carol Grayson also had to face years of illness and the deaths of their husbands. One reported that they were not told that one of the family victims had died. His mother was not permitted by the hospital to stroke his head. Years later, they found out that was because his brain and body parts had been removed, without seeking permission from the family. His brain was finally buried, with his brother, also infected, when he too died as a result of receiving factor 8.

Colette and Carol, along with thousands of other victims, have been lied to, pushed away and denied justice by officials. This is also coming out in the inquiry. No wonder Sir Brian is urging the Government to ensure that they start right now with expanding the scheme to include affected persons, implementing interim payments and moving as fast as possible to a full settlement.

The noble Lord, Lord Waldegrave, had hoped to be able speak today. Like Lord Cormack, he had acted on this in the Commons, and I know he has told the Minister that the Government must follow Sir Brian to the letter or face immense disappointment and dismay.

This Government say they are doing everything at pace for the Post Office Horizon scheme, with most settlements paid in full by August or as soon as possible thereafter. The victims of the infected blood scandal deserve no less.

Baroness Featherstone ›

(LD)

Share

My Lords, I apologise for not having been in the Chamber at Second Reading.

Thousands of people have died because of Governments' and officials' lies and obfuscation about the contaminated blood scandal. This Government, and every Government for the past 40 years, should be ashamed. Perhaps this Government should be more ashamed than all because, when we finally got the long campaigned for and long literally begged for public inquiry—I praise Theresa May for initiating that inquiry—the chair, Sir Brian, said in terms what the compensation should be and that it should be paid swiftly. Unbelievably, the Government are still prevaricating. I hope they are not hoping to limp on to the next election. We need to do better to stop obfuscation and delay, and make the amends that can be made, although nothing will ever make up for what has happened. My noble friend Lady Brinton's speech was extraordinary and laid this out far better than I can. We can never bring back the 3,000 who have died and those who are dying every single day while this is delayed, nor undo the suffering experienced by this 40-year agonising wait for justice.

I declare an interest. My nephew Nicholas Hirsch, one of my sister's twin boys, was a haemophiliac and contracted hepatitis C. He died aged 35, leaving a 10 month-old baby daughter. Every family that has lost a loved one is in the same position. Those who are still living need to live to see justice, and the families of those who have died need to see justice. The time being taken is obscene, inordinate and cruel. The rubbish being pumped out by the Government about waiting for the final bit of the inquiry is intolerable. Sir Brian, the brilliant chair of the inquiry, has made it crystal clear that there is no need and no time to wait. Quite frankly, we should not need a TV series and public outrage to be the motivation for the Government to do the right thing.

I have been trying over the years to get redress on the issue. I remember going with Lynne Kelly, head of Haemophilia Wales, to meet Chris Wormald, Permanent Secretary at the Department of Health, to show him the proof of obfuscation and lies. He lied to us there and then, and then he lied in writing—a lie for which he later apologised in writing, and which I submitted in evidence to the inquiry. It was shameful how many lies were told by officials to victims, as well as to the parents and families of those who were contaminated. The very least the Government can do is to act, right now, before any more victims die.

Before I sit down, I want to pay tribute to all the campaigners, fighters and families who have sought justice. In particular, I thank the Labour MP Dame Diana Johnson, who has been chair of the APPG and fought so hard on this, as well as Jason Evans from the campaign organisation Factor 8.

It is important to be clear beyond doubt and lay responsibility where it lies: at the Government's door. These amendments make it clear that the Government are responsible for fully funding payments, that they should set up the body that will administrate this on their behalf, and that they must put on the record how and when this will happen, and stop prevaricating that they need to wait for the final report. For decency, for honour and for compassion, I ask the Government to please do the right thing and do it now.

Baroness Campbell of Surbiton ›

(CB)

Share

My Lords, before I begin, I too pay tribute to the late Lord Cormack. He was a consummate parliamentarian, but he was also my friend, and he taught me so much when I arrived in the House. Equally, he gave terrific support on disability issues; on every occasion, he was very supportive.

I support Amendment 134, in the name of the noble Baroness, Lady Brinton. I declare an interest, as my first husband, Graham, had haemophilia and received infected blood products. As a result, he contracted both hepatitis C and HIV. We learned of this only after we had become engaged. Graham died 30 years ago, on 19 December 1993, aged 32. We had been married for only six years.

I apologise that my health prevented me speaking at Second Reading. As I was directly affected by the infected blood scandal and gave evidence to the inquiry, I hope your Lordships will forgive this late intervention.

The noble Baroness, Lady Brinton, addresses a matter of profound importance to the thousands of us infected or affected by the shameful events that devastated the lives of so many. Your Lordships will remember that, in July 2017, Prime Minister Theresa May ordered a fully funded independent inquiry into how contaminated blood transfusions infected thousands of people with hepatitis C and HIV. She also allocated £75 million to be available for interim payments to victims still living and bereaved families. Yet only two months ago, some seven years on, the distinguished chair of the inquiry, Sir Brian Langstaff, expressed his frustration with delays in setting up a compensation scheme. He said:

“The Inquiry’s final recommendations on compensation were published in April 2023. My principal recommendation remains that a compensation scheme should be set up with urgency”.

The Government accept the “moral case for compensation”, but these words are meaningless if actioning the inquiry’s recommendations is further delayed.

It was in 1987 that Graham, then my fiancé, and his younger brother Anthony were first told that they had HIV from factor 8 clotting agents. Anthony was first to die, leaving a widow and a one year-old daughter. Graham endured five years of misery, a barrage of associated illnesses, including pneumocystis pneumonia, epilepsy and intermittent blindness. He died 18 months after his brother. It must have been unbearable for him to watch what he knew was in store for him, but his courage took my breath away.

I count myself lucky. I eventually found a way to move on, enough to lead a good, purposeful life after Graham died, but the memory and the flashbacks do not fade. Thousands of other affected families have not been as fortunate, with the personal cost of the past ever present and haunting. Many wives of infected men lost their childbearing years. Parents and countless partners gave up jobs to care for loved ones at a time when HIV/AIDS was stigmatising and isolating. There have been over 3,000 deaths to date, with an average of one more every four days.

The Government have rightly accepted more responsibility for their part in the tragedy, but they have procrastinated in establishing a compensation scheme. Not content with the guidance given by Sir Robert Francis, who was specifically appointed to make recommendations for compensation, the Cabinet Office has now appointed Sir Jonathan Montgomery to chair a group of experts to decide who gets what. Not surprisingly, the infected blood community is concerned, given Sir Jonathan’s past links with two bodies implicated in the scandal, and unhappy about yet a further delay.

According to the chair of the Haemophilia Society,

“it has caused huge anger and upset in the community. We certainly haven’t been consulted and neither have any other members of the community as far as I am aware. This is now the third knight to be asked for his opinion on it. First, Sir Robert Francis. Then Sir Brian made his recommendations in his interim report. They are now asking for a third time. It feels like they want to keep asking the same questions until they get an answer they like”.

I hope the Minister will tell us how this latest “body of experts” on compensation will involve members of the infected blood community, whose lived experience makes them experts too. The need for such involvement is a consistent theme of Sir Robert’s report if trust is to be restored. So, in the spirit of transparency, will the Minister let your Lordships have sight of the membership and terms of reference of this new expert group? Can he also give an approximate timeline of when compensation will be paid? As the Government insist on waiting for the final inquiry report to be published on 20 May, will the Minister at least assure this House then that a compensation scheme will be ready to go live afterwards?

Every year, on the anniversary of my late husband’s death, I visit St Botolph’s church in the City of London. It has a remembrance book with the names of hundreds of haemophiliacs who have died from infected blood products. Each year, I see pages of new entries. Surely this example alone should galvanise the Government into compensating those still living as soon as humanly possible. Each

delay means countless more deaths without the comfort of knowing that justice has been served for the infected victims, and their affected partners and children.

Baroness Meacher >

(CB)

Share

My Lords, I express my strongest possible support for all the amendments in this group. I congratulate the noble Baronesses, Lady Brinton and Lady Campbell, on their powerful speeches. As president of the Haemophilia Society for many years, I have met many of the victims infected in this appalling blood scandal. Many have died before any compensation was paid to them at all. Many others soldier on with the support of their families.

We have all been moved by the Post Office scandal, but in my view far too little has been heard of the very different but equally devastating suffering of the people given infected blood, many of whom were already suffering from a serious condition. As we know, their health-wise suffering was different from that of the Post Office staff. The great thing about these amendments is that they provide clear deadlines and clear government responsibilities.

4.15pm

Amendment 134 provides for the £100,000 interim compensation payment to be made to the nearest relatives of victims

"within one month of the passing of this Act",

in line with Sir Brian Langstaff's report—no ifs, no buts. That is what these people need; they have waited too long. Amendment 133A would ensure that the body to administer the full and final compensation scheme will be established on behalf of government and be fully funded by the Treasury. All at the Haemophilia Society will be monitoring the progress of that body, to make sure that it sticks to its brief.

We are talking about contaminated blood imported from the US as early as the 1970s, often having been taken from prisoners with HIV and hepatitis C. It was not checked, yet it was given to innocent sufferers—people already suffering with conditions, as I have said. This was some 50 years ago, yet we are still talking about compensation for the widows and children of these victims. I am sure that we will return to these issues on Report and I really implore the Government, as well as the House, to support the tenor of these amendments.

Lord Bichard >

(CB)

Share

My Lords, I too speak in support of Amendment 134. I have to apologise, for I am afraid I was unable to attend Second Reading. I speak on this amendment as someone who has spent a good deal of time in the last couple of years chairing one of the expert advisory groups for the infected blood inquiry, looking at public health and administration. As a result, like some other Members of this House, I spent a day at the inquiry giving evidence. That day made a huge impression on me, as I know it will have done on others. It made a huge impression not least because there was an audience of dozens of victims, who had suffered grievously for years and decades. They have shown immense courage, determination and resilience in the face of what the chair, Sir Brian Langstaff, has rightly said were serious failings over decades that

"led to catastrophic loss of life and compounded suffering".

As chairman of an expert advisory group, it was not for me to draw those wide conclusions but I was able to see from the evidence—and draw my own conclusions—that during that period there had been multiple breaches of the Nolan principles and the conventions that preceded them, and multiple breaches, I am sad to say, of the Civil Service Code. In other words, the state let these people down time and again, and the state should now provide restitution without any further delay.

There is one other reason why I am supporting this amendment: because I feel that not to do so would make me complicit in what now seems to be the way in which the state, in all its forms, responds to failings such as this. We delay accepting responsibility for as long as we can. We defend the indefensible. We place the reputation and interests of institutions and the system above the interests of the people who have been harmed. We set up inquiries, which inevitably delay action. I am not in any way criticising the way in

which Sir Brian has led the infected blood inquiry; it has been exemplary, and he has done a fantastic job. We then design unnecessarily complex systems for claiming compensation. We do not do this once; we do all that time and again. It happened with Windrush, Grenfell, the Post Office and, probably most heinously of all, the infected blood inquiry.

We have reached a stage where these responses themselves are a breach of the Nolan principles of public life. Let me remind the Committee that these principles include integrity, accountability, openness and leadership. This amendment seeks to change the responses and rebuild the public's trust in the way in which we govern. It needs to be done quickly, because the inquiry report will come out in May, and it will receive phenomenal attention. It will either further undermine the public's faith in government or, if we take this action now, perhaps people will believe that we are changing things through action and not through words.

Lord Owen ›
(Ind SD)

Share

My Lords, 1975 was a long time ago. I am getting on in age now, and I wondered if I would ever see the day when the decision I announced to the House of Commons with money attached—that we would go for self-sufficiency in blood products—would be honoured, at least in a way so that some of the relatives of the many people whose lives have been lost would feel some sense of satisfaction. I could make a very long speech on all those who have fought this fight with honour, dignity and integrity. They belong to all political parties; it very soon became a cross-party campaign.

I also want to make a few things clear. We knew about this earlier than 1975. A very remarkable book, *The Gift Relationship* by Professor Titmuss, identified the problem of the blood coming into our country from places in which there were absolutely no safeguards and very few questions you could ask about somebody's past health. At that time, we had no way of finding out whether blood was infected with hepatitis, for example. We had to ask a simple question as a method of trying to find out whether a blood donor was suitable: we would ask if they had ever been yellow—ie, had their liver ever been affected so that they were jaundiced and, as likely as not, had been infected with hepatitis. It was as crude as that.

I want to make it clear that, through the years in which blood products which doctors knew might be infected were being used, they had an agonising choice. They had to explain the risks to the patients. Sometimes there were children who were not able to understand it, so the issue was put to the parents, who had to juggle these very difficult and complex medical facts. The paediatricians and haematologists had to do their best to explain the risks to them, without really knowing.

When I first began to look at this question, I wondered whether we could get away with having a complete ban on blood products. It soon became clear that, if we did that, we would not be able to give blood products that might well not be contaminated to a very substantial number of patients. Let us remember what the situation is. Eventually, we got a product that parents could inject at home. That meant that, if a child had fallen and was bound to bleed into their knee, arm or elsewhere, they could give the injection straightaway and the child would likely not suffer any serious damage—but that was actually one of the worst products to give. These choices were being made against this background of a lack of knowledge—but nothing explains the refusal of successive Governments to pay compensation to those affected. Nothing explains the delay, which meant that, when AIDS came, we still had no blood of our own—we were not self-sufficient with blood very likely not to be contaminated, although even then we could not be absolutely sure that it would not be contaminated.

What I would have said would have been much stronger, more vehement and angrier if not for the circulation of a letter from the noble Earl, Lord Howe, to us about this debate. I have known him in many different guises, and I know him to be a man of honour. Frankly, when I read this letter, I do not need any more assurances that there will not be any unnecessary delays. I believe his words are carefully chosen, and I think he understands, like many people from his own party and people who have been responsible for healthcare, that there can be no more ducking and weaving, and no more appeals from the Chancellor to delay it for another year or anything like that. This time, we have to honour it—and we have to do it this year.

The report will be available on 20 May, and everybody will be able to read it. Judging by the day's evidence I gave, I think that it will be a searching and honourable report. Given the device in the House of Commons of attaching it to the Bill—of course this was a device—and now given the Government responding to this device by trying not to dismiss it but to make it more precise and effective, that battle seems to be over. We can be sure that this year—in a matter of months—payments will be made. I hope that can be made clear from the Front Bench. Nobody comes out of this with a lot of distinction, but I only say: let us read the report. I suspect a lot of people will feel very ashamed.

Lord Horam ›

(Con)

Share

My Lords, the Committee listened with great interest to the remarks of the noble Lord, Lord Owen, and the honourable part he played in this tragic situation. I was a Minister of Health much later, between 1995 and 1997, and I had to struggle with problems with the Treasury and getting reasonable compensation for the victims—the infected and the affected—as he said. I thank the noble Baroness, Lady Brinton, for raising this issue today so that we could have a debate of this kind. It is necessary, and we should keep pressing.

I was appalled by the Statement by John Glen before Christmas in the other place. It was one of the emptiest Statements I have heard from a Minister in that situation. It was as though the Government were just going through the motions of giving a Statement because they had committed themselves to doing so, without having anything at all to say, which is extremely disappointing. I was grateful to my noble friend Lord Howe for having much more sensible and positive things to say in his letters so far. We hope he can follow those up.

4.30pm

The noble Lord, Lord Bichard, put his finger on something very important: namely, the way we handle all these sorts of problems, not only the tragedy of this particular case, and the length of time taken by these inquiries. This inquiry was actioned in 2017 and started in 2018, so it has been going for over six years—we won the Second World War in less time—and we still do not have an end date, although we hope it will be this May. The Swedes took one year to do a Covid inquiry; we will take God knows how many years on ours. How long are we taking on Grenfell? How long did we take on Chilcot? It is ridiculous that we take so long on these things. The Government should pay attention to how we handle their length and complexity. At maximum, we should take two years to deal with these issues. That is long enough to come to some clear conclusions and get positive evidence. I hope the Government will take that into account as well as all the other important issues raised by the noble Baroness, Lady Brinton, and the noble Lord, Lord Owen.

Baroness Altmann ›

(Con)

Share

My Lords, I apologise to the Committee that I was not available to speak at Second Reading. I had not intended to speak and will not delay the Committee long, but I add my plea to my noble friend the Minister that this is finally resolved. The speech from the noble Baroness, Lady Brinton, and the examples given by the noble Baronesses, Lady Featherstone and Lady Campbell, should speak for themselves. As a tribute to Lord Cormack, who campaigned on this issue for so many years, it would be fitting if my noble friend could give us concrete reassurance from the Front Bench that this injustice will, finally, be properly remedied.

Lord Marks of Henley-on-Thames ›

(LD)

Share

My Lords, this group of probing amendments, which have the aim of ensuring decent and necessary payments to all those bereaved in this disastrous scandal, has given the Committee the chance to consider the appalling plight of the victims of the infected blood scandal.

We welcome Clause 40, in particular Clause 40(3)(a), which says that:

“In exercising its functions, the body must … have regard to the need of applicants for speed of provision, simplicity of process, accessibility, involvement, proactive support, fairness and efficiency”.

It is only to be hoped that the Government live up to the promise of that clause in future, because they have signally failed to do so in the past.

If this Bill has taught us anything, it is that all victims of crime, major incidents and appalling and deeply shocking medical errors such as this, as well as other administrative disasters such as the Post Office Horizon scandal, have so many needs that resemble each other. We need early admissions of responsibility and culpability. We need government and administrative bodies to face facts.

We need to ensure that victims have early access to the services and support they need and that such services and support are in practice provided in full and in good time.

Of course, one of the tragic aspects of this scandal is that the need for speed is particularly severe. It is worth reminding ourselves that, since Sir Brian Langstaff's interim report of April 2023, more than 70 victims have died. The noble Lord, Lord Bichard, gave evidence to that inquiry, as did the noble Lord, Lord Owen. Both spoke eloquently of its conduct, and it is worth remembering the conclusion of the noble Lord, Lord Bichard, that the state let people down and should accept responsibility. He spoke of defending the indefensible, and the noble Lord, Lord Horam, echoed his words. Delaying compensation is denying responsibility. As all noble Lords who have spoken have said, there is no reason at all to wait any longer—certainly not until the Government have digested at length the contents of Sir Brian's final report. Any such delay would be a travesty of Sir Brian's principal call, which was for urgency.

Sir Robert Francis's recommendations, in his report in June 2022, on the way that compensation should be handled, along with Sir Brian's report, now need urgent implementation. It is to be hoped that the work of the expert panel—established under the chairmanship of Jonathan Montgomery, who is the chair of Oxford University Hospitals NHS Trust, which was not a mile away from involvement in the crisis—does not delay or water down the recommendations of the two reports. It is right to say that the campaigners are deeply concerned, as the noble Baroness, Lady Campbell, stressed.

In opening the debate, my noble friend Lady Brinton and the noble Lord, Lord Owen, pointed out the strength and determination of this very long campaign. We mourn Lord Cormack, whose involvement in the campaign was also extensive and long lasting.

The noble Lord, Lord Owen, spoke of the difficulties facing doctors, and the lack of political will needed to ensure self-sufficiency in blood products in this country. We can only hope that the noble Lord's optimism in expecting the Government now to react quickly and finally, following the report due in May from Sir Brian Langstaff, is justified. My noble friend Lady Featherstone and the noble Baroness, Lady Campbell, added their accounts of personal tragedy, and thereby movingly added to the demand for urgency.

We know that the Horizon case led to definitive action only following ITV's television drama. It should not be the same with the infected blood scandal, but we understand that ITV has commissioned Peter Moffat to write such a drama, so perhaps public opinion will come to the rescue once again. The burden of my speech, and the speeches of all noble Lords who have spoken today, is that this should not be necessary in a civilised and compassionate democracy.

Earl Howe >
(Con)

Share

My Lords, in arriving, as we now have, at Part 3 of the Bill, I should like to begin by thanking all noble Lords who have spoken so powerfully and movingly on a set of events which many regard as constituting the worst disaster in the history of the National Health Service. The story of those who received infected blood as part of their NHS care and treatment is one of unimaginable suffering and terrible tragedy over more than four decades. It is a story that is still not yet over. The victims' suffering has been made even worse by an absence of full justice for those individuals and, alongside that, a failure to reach—as far as may be possible—a sense of closure.

The official public inquiry currently under way, under the chairmanship of Sir Brian Langstaff, is the start of delivering the justice that is needed. The inquiry has been informed by the expert work of Sir Robert Francis, and Sir Brian has so far published two interim reports on his findings, with his final report due on 20 May. Meanwhile, in the other place, Clause 40—as it is now—was added to the Bill to speed up the delivery process.

The Government accept the will of Parliament that arrangements should be put in place to ensure, as far as reasonably practicable, that the victims receive justice as quickly and efficiently as possible. Therefore, my desire—and, I trust, that of all noble Lords—is to see the Bill added to the statute book as soon as is reasonably practicable. The Government are well aware that every passing season sees more suffering, death and bereavement. We are therefore eager to avoid more needless delay.

Ministers have already taken action and given a number of undertakings. First, we have promised that within 25 sitting days of Sir Brian Langstaff's final report being published, we will make a Statement to Parliament setting out the Government's response. The period of 25 days is not a target but a deadline. We will issue our response as soon as we possibly can.

Secondly, in response to a recommendation from Sir Brian, we have made interim payments amounting to £440 million to infected individuals or bereaved partners registered with existing infected blood support schemes.

Thirdly, in readiness for Sir Brian's final report, we have appointed Sir Jonathan Montgomery to chair an expert group whose remit is to advise the Government on some of the legal and technical aspects of delivering compensation. I realise that some have questioned Sir Jonathan's appointment because of his former connection with Bayer. Noble Lords may wish to note that Sir Jonathan ceased to be a member of the Bayer bioethics council on 31 October 2023. The council was an independent advisory group which had no role in the day-to-day operations of the company. It has had no executive power in the operational business of Bayer.

I emphasise that nothing in the work of the expert group is intended to cut across the conclusions of the inquiry or the advice of Sir Robert Francis—quite the opposite, actually. The expert group is there to enable Ministers to understand certain technical issues and thus enable decisions to be taken more quickly.

On the amendment passed by the House of Commons, which we are now considering, noble Lords will understand that the provisions of any Bill need to be legally coherent and should not cut across the integrity of the statute book. There are two principal defects with Clause 40: first, its coverage does not extend to the whole of the United Kingdom. The Government are clear that infected blood is a UK-wide issue. For that very reason, the infected blood inquiry was set up on a UK-wide basis. In March 2021, we announced uplifts to achieve broad financial parity across the UK's infected blood support schemes, increasing annual payments to beneficiaries across the country as a whole. Maintaining a commitment to parity across the UK is extremely important.

We also need to agree on a set of arrangements that are workable and, above all, work for victims. It is therefore essential for the UK Government to engage with all the devolved Administrations with those aims in view. That is what we are now doing. My right honourable friend the Minister for the Cabinet Office met counterparts from the Welsh Government, Scottish Government and Northern Ireland Executive earlier this month to discuss this matter; those discussions will continue.

The second principal defect of Clause 40 is that in proposing the establishment of an arm's-length body, as Sir Brian recommended, it does not also propose any specific functions for that body. The Government's intention, therefore, is to bring forward an amendment on Report which will correct these two deficiencies and add further standard provisions to ensure a more complete legal framework when setting up an ALB. I plan to engage with noble Lords in advance of Report to discuss the content of the government amendment once it has been drafted.

4.45pm

That drafting is not yet complete. One of the main reasons for this—which I personally felt strongly about—was that we should use this Committee stage as an opportunity for a general debate on the infected blood scandal and, in advance of Report, for the Government to be made aware of the views expressed by noble Lords from around the Chamber. I hope the Committee will agree that this was a reasonable approach.

My remarks thus far, have, I hope, given some reassurance to the noble Lord, Lord Ponsonby, as regards Amendments 133A and 133B. I listened carefully to the noble Lord's speech, and I entirely appreciate the concerns that he has raised. I have already made it clear that it is our aim is to achieve parity of treatment across the entire UK. However, in the light of what I have said, I hope the noble Lord will understand why I cannot at this stage say anything about the funding of compensation. In regard specifically to Amendment 133B, it would not be appropriate for the Bill to seek to override the existing processes that are in place to secure His Majesty's Treasury funding. I cannot provide further reassurances at this stage, other than to say that the UK Government have accepted the moral case for compensation.

I now turn to Amendment 134, tabled by the noble Baroness, Lady Brinton. I am grateful for this amendment, which seeks to probe—as she made clear—how and when interim compensation payments will be made to affected victims of the infected blood scandal. Many noble Lords will, I am sure, share the noble Baroness's sense of urgency—expressed equally powerfully in the other place—on the need to deliver justice swiftly to the victims of the infected blood scandal.

Victims of infected blood have suffered terribly over many years, and that distress has been compounded by the financial uncertainty that they have faced. The Government recognise the imperative of providing justice for these victims as soon as is reasonably possible, and we are well aware that many have short-term needs. Interim compensation of £100,000 to those infected, or their bereaved partners, registered with the existing infected blood support schemes was paid in October 2022 for precisely that reason.

I realise that the noble Baroness would like us to go further, faster. The need to move quickly and provide certainty is being taken very seriously. In advance of the Government's formal response to the inquiry—which, in turn, depends on the publication of the final report—regrettably I cannot commit to specifics as regards the cohorts of those individuals identified in the amendment, or provide answers to questions around eligibility generally. I wish it were otherwise.

I cannot yet overcome a legal impediment either. The interim payments made from October 2022 have been made through the current infected blood support schemes, which are run separately in England, Wales, Scotland and Northern Ireland. The schemes can make payments only to people registered with one of them. To extend interim payments to the cohorts identified in this amendment would not be possible across the UK as a whole, because the legal powers to register, and make payments to, the new cohorts do not exist.

Indeed, the alternative to registering individuals with existing schemes is making payments through a new arm's-length body, as defined by Clause 40. I heard the concerns around a delay and procrastination, but Sir Brian has recommended setting up an arm's-length body. Establishing such a body is a significant undertaking for the Government; unfortunately, there are processes that cannot be expedited, including the appointment of staff, the procurement of any required IT systems and ensuring that there is proper accountability to both the Government and Parliament for expenditure of public funds. That takes a certain amount of time to achieve, with the best will in the world.

Against that background—again, I wish that matters were otherwise—I regret that I cannot commit to a timetable or comment on the scope of any further interim payments at this time. However, I come back to what I emphasised earlier: the Government's twin priorities are certainty and speed. With those aims in mind, I assure the Committee that the government amendment on Report will have the desired effect of speeding up the implementation of our response to the inquiry's findings. To provide further reassurance to the noble Baroness—

Lord Marks of Henley-on-Thames >
(LD)

Share

The Minister mentioned that there will be government amendments on Report to address the deficiencies in Clause 40 that he has identified. Does he envisage having the opportunity, between now and Report, to prepare amendments to address some of the other legal impediments—for example, to widening the cohorts—that he has identified? That could accelerate clarification and speed up the process.

Earl Howe >
(Con)

Share

I anticipate using every opportunity available to engage with noble Lords on not only what the amendments will comprise but what we intend to do thereafter. As the noble Lord will appreciate, there is a wealth of regulations in this space. I venture to say that quite a lot of the detail of the arrangements will be contained in regulations, which will be laid as soon as possible. To the extent that I can go into detail on what those regulations will contain, I shall be happy to do so, but I hope that the noble Lord will understand that I am not in a position to do so today.

Baroness Meacher >
(CB)

Share

I apologise for interrupting the Minister. He referred to the payment of £100,000 to a lot of people in 2022, but is he aware that the whole point of Amendment 134 is to fill the gaps for all the people who did not receive an interim payment? When he referred to speeding up their response to the Langstaff inquiry, that was a verbal commitment, as I understand it. The point is that these people need an urgent payment of £100,000; as I understand it, they have not received any compensation, so it is urgent. We are talking about something that happened 50-odd years ago. The idea that we still need more time cannot be right, so I hope that the Minister can reassure us that absolutely everything will be done to get a payment of £100,000 out to the groups of people who have not yet received compensation—immediately and within a month of the passing of the future Act, as the amendment says.

Earl Howe >
(Con)

Share

I perfectly understand the noble Baroness's strength of feeling on this long-standing scandal. It may be of some reassurance to her if I repeat the words of my honourable friend the Minister for the Cabinet Office in the other place, who said in December:

"The victims of the infected blood scandal deserve justice and recognition. Their voice must be heard, and it is our duty to honour not only those still living and campaigning but those who have passed without recognition".—[*Official Report*, Commons, 18/12/23; col. 1147.]

I met the Minister for the Cabinet Office to discuss these matters. My right honourable friend assured me that this is indeed his highest priority, and I undertake to the Committee that I will continue to work closely with him ahead of the next stage of the Bill.

I am grateful to noble Lords for their contributions to the debate and for highlighting so compellingly the issues that bear upon this appalling human tragedy. Ministers will reflect carefully on all that has been said. I hope my response has provided the noble Lord, Lord Ponsonby, and the noble Baroness, Lady Brinton, with enough by way of assurance—although I wish I could reassure them even further—about the Government's intended course of action to enable the noble Lord to withdraw his amendment and for the other amendments in the group not to be moved when they are reached.

Baroness Brinton >

(LD)

Share

Before the Minister sits down, I would like to ask him a couple of questions. I am grateful to my noble friend Lord Marks, who asked exactly the question I wanted to know about: what is going to happen between Committee and Report?

In other instances, it has been quite speedy to set up a shadow body—after all, the Government now know how to do it. Is there any capacity to start setting up a shadow body that will be ready to go?

We do not yet know the timetabling for the Report days, but clearly Members of the Committee are going to need to see the Government's amendments in enough time, particularly—to pick up the point raised just now by the noble Baroness, Lady Meacher—to try to address the deficiencies if those who are not currently included remain so.

Earl Howe >

(Con)

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On the noble Baroness's latter point, I hope to have extensive discussions with noble Lords about the Government's amendments and their intended and literal effect.

On setting up a shadow body, I myself asked that very question. There are some issues here. I am advised that it would not save any time. There are still a number of decisions to be made on the government response to infected blood, and clearly we cannot pre-empt those decisions by establishing an arm's-length body without clarity on what its precise functions or role would be. As I have said, our intention is to table amendments on Report that will correct the defects in Clause 40 and have the desired effect of speeding up the implementation of the Government's response to the inquiry.

However, I will take that point away to make sure that there really is no advantage in not having a shadow body. The Government have done that before in other circumstances and it is worth thoroughly exploring as an option. I think I will be told that any idea of a shadow body would need to be considered alongside its interaction with the passage of the legislation and the Government's response to the recommendations of the second interim report, and indeed the report as a whole, but I hope the noble Baroness will be content to leave that question with me.

Lord Ponsonby of Shulbrede >

(Lab)

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My Lords, this has been an important debate. In fact, I go further: it has been a historic debate, because in a relatively short debate we have had the noble Baronesses, Lady Featherstone and Lady Campbell, who spoke about very close relatives who have been affected by this tragedy; we have had the two noble Lords, Lord Bichard and Lord Owen, who gave evidence to the inquiry; and the noble Lord, Lord Owen, in his speech, went back the furthest, if I can put it like that, to 1975. There are Members who have spoken in this short debate who have tracked this issue for the many decades that it has lingered.

Nobody is questioning the best intentions of the noble Earl, Lord Howe; he has been involved in this issue in a number of ways over many years. My amendments are essentially probing amendments, and I acknowledge the letter that the noble Earl has sent to us. We will not press the amendment, but I was going to ask the same questions as the noble Lord, Lord Marks, and the noble Baroness, Lady Brinton, about process. The Government have said they will table amendments on Report, and the Minister said there will be an opportunity for noble Lords to see the amendments before then and to discuss them, but we may want to table amendments to his amendment and we will want to make sure we have ample time to do that. I know the noble Earl understands that point, but I repeat it from these Benches as well.

5.00pm

This has been a comprehensive discussion of the issues. The essential point is that all noble Lords want to reach a conclusion and start distributing funds as soon as practicable. It is for a sense of decency that the Government, aided by all opposition parties, must achieve this. As a number of noble Lords have said, it is the worst scandal in NHS history. It is incumbent on us all, on all sides of this House, to make sure that the matter is concluded as quickly as possible. I beg to leave to withdraw Amendment 133A.

Amendment 133A withdrawn.

Amendment 133B not moved.

Clause 40 agreed.

Amendment 134 not moved.

Amendment 135

Moved by

Baroness Brinton >

Share

135: After Clause 40, insert the following new Clause—

"Victims of the Horizon system: timetable for compensation payments(1) Within seven days of the day on which this Act is passed, the Secretary of State must publish a timetable for making payments in respect of schemes or other arrangements to—(a) compensate persons affected by the Horizon system;(b) compensate persons in respect of other matters identified in High Court judgments given in proceedings relating to the Horizon system.(2) In considering a timetable under subsection (1) the Secretary of State must have regard to the importance of speed and fairness to victims of the Horizon system.(3) In this section "the Horizon system" means previous versions of the computer system known as Horizon (and sometimes referred to as Legacy Horizon, Horizon Online or HNG-X) used by Post Office Limited." Member's explanatory statement

This amendment requires the Secretary of State to publish a timetable for the payment of compensation to victims of the Post Office Horizon scandal.

Baroness Brinton >
(LD)

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My Lords, I tabled Amendment 135 some weeks ago, after there seemed to be some difference in timing for the compensation scheme for those sub-postmasters who were accused of stealing, prosecuted and convicted, lost their jobs and their homes, were made bankrupt, lost future employment and, worse, lost their relationships; some were so distressed that they took their own lives. This House has debated this issue a lot, and I will not go through the detail, even of the compensation schemes, because I believe that they are familiar to many people in your Lordships' Committee, unlike the previous group.

On Saturday the *Times* reported that more than 250 of the affected sub-postmasters have already died. Like the infected blood compensation scheme that we discussed in the debate on the last group, time really is of the essence. The amendment says that within seven days of this Bill passing,

"the Secretary of State must publish a timetable for making payments in respect of schemes or other arrangements",

both for those affected by the Horizon scheme and in relation to

"other matters identified in High Court judgments"

about the Horizon scheme. It emphasises that speed and fairness must be priorities, echoing the points the Prime Minister made last month. The amendment also refers to the scope of the Horizon scheme, including its predecessors and successors.

It is important to state that the High Court was absolutely clear that any prosecution that relied on Horizon is unsound. It was worrying that on 9 January this year the chief executive of Post Office Ltd—or POL—wrote an email that was published last week, stating that POL believed that around 360 sub-postmasters were probably guilty; that is, in POL's view, the prosecution was not totally reliant on Horizon. I am afraid that this letter shows that the culture inside POL has not changed, and that is truly shocking.

The evidence to the public inquiry demonstrated that POL's approach to investigation and prosecution was unfair and inappropriate, because POL was the victim, the investigator and the prosecutor. It often denied postmasters access to information that they needed for their defence, which is against our court rules.

Last week the press reported that POL has now instigated an "independent investigation" by retired police officers into the behaviour and actions of POL investigators. Can the Minister assure your Lordships that it will be a truly accountable and independent investigation whose results will be fully published, unlike POL's behaviour with Second Sight, which it commissioned to investigate the sub-postmasters and Horizon? It was then gagged and sacked when it uncovered the truth. While it is good that these prosecution powers will not be used again, can the Minister confirm that this group of victims—the 360 who the chief executive of POL says are probably guilty—will still be fully eligible for compensation in line with others?

On the compensation schemes, yesterday's *Sunday Times* reported that some former postmasters are still waiting to hear from POL about their claim. There is a simplified form now, 14 pages long, with 100 supplementary questions that remain—as on the previous form—absolutely impenetrable. They make clear that POL fails to believe certain claims about hardship, personal injury, harassment and mental health. Some are being asked for specific documents going back over two decades. I am not sure that I could put my hands on my P60 from two decades ago.

The guidance clearly states that POL is supposed to accept some claims, even when it does not have the exact detail. I quote from the guidance:

"Where the postmaster is unable to satisfy the burden of proof in relation to their claim, their claim may nonetheless be accepted in whole or in part if the Scheme considers it to be fair in all the circumstances".

But POL is not telling the postmasters what is fair. Once again, it is using its powers to hobble these victims.

I will not go into the detail of the three schemes. We understand why they are different and we debated them in some depth when, on 16 January, the Post Office (Horizon System) Compensation Bill went through all stages for quick enactment. My concern is that, despite promises from the Dispatch Box in both Houses that the scheme would be simpler and accept a wider range of damages, including the elements I just outlined, unfortunately, in the hands of POL once again, the exact opposite seems to be happening.

I do not seek to open personal cases in Committee, but there are enough postmasters now saying that POL is offering them only a very small fraction of the actual losses suffered by them as compensation. Some, including Alan Bates, have said that they have been offered a sixth of their claim. This is outrageous. Can the Minister say whether the Government have oversight of these issues and how they can be resolved?

At the Post Office (Horizon System) Compensation Bill Second Reading, I mentioned a scheme that Dan Neidle, who runs Tax Policy Associates, thought would be most fair. He is an expert in compensation and taxation, and he made two or three points that have not been picked up in the compensation schemes as they are currently being run.

First, all applicants should receive a grant for legal advice. This is particularly vital when complex forms have to be completed and official data needs to be found. He also thought that there should be a large fixed amount when it is confirmed that they are a victim of the scheme, whether convicted or not. That would remove the current shameful divide between different types of cases for those convicted and those imprisoned. He thought that figure should be considerably higher than £100,000, but that is entirely up to the compensation scheme and the Government to agree.

There should also be—this is part of the fog from POL—an amount that reflects their loss of earnings from the day they could no longer work, the loss of the home and any subsequent loss accruing from that, their pensions and any amounts relating to specific damage above and beyond that outlined in previous areas. I mention this because it is exactly the sort of detail that sub-postmasters need to see laid out in a very clear form, which they are still struggling to find.

Last week, I asked a question of another Minister following either a Statement, an Oral Question or a PNQ. I note that, on page 93 of the Green Book for the 2023Autumn Statement—and in the chart on page 84—it says:

"Post Office Compensation Schemes, Corporate Entities ... The government will legislate in the Autumn Finance Bill 2023 to exempt from Corporation Tax compensation payments made under the Historical Shortfall Scheme, Group Litigation Order schemes, Suspension Remuneration Review or Post Office Process Review Scheme. The legislation will align the taxation of onward payments of compensation to that of individual recipients".

It is interesting that we have had, just before Christmas, regulations relating to taxation for both the Horizon scheme and the infected blood scheme in one set, so the Government can put the two together if they so choose to do. However, I cannot find anywhere in the Green Book the £1 billion that the Government say they have set to one side to pay for the compensation. It is not visible in the Treasury elements or BIS bits. Can the Minister show me where it is? I am not expecting him to do so this afternoon, but this is the second time I have asked about this and had no answer. I want to know where in the government books it is being held and whether the whole £1 billion is being held.

Over the past two weeks, the *Independent* has been gathering reports on one of the two predecessor programmes to Horizon, known as Capture. In 2003, GRO-C discovered that she was being sued by POL for £50,000 in a case that dated back to 1994 and bears many similarities to the Horizon scheme. She was not alone; other sub-postmasters from that era were also sued and bankrupted by POL. Sadly, GRO-C has now died. Can the Minister say whether sub-postmasters prosecuted as a result of the Capture scheme will also be covered by the Horizon scheme? It is a predecessor, after all, and we know that sub-postmasters were asking Ministers as early as 1997 about problems with the IT systems that were the predecessors to Horizon.

Finally, can the Minister please resolve the issue around the timings of the completion of the compensation scheme, as currently outlined? On 10 January, the Prime Minister said in Prime Minister's Questions that the sub-postmasters will be cleared and compensated swiftly. On the same day, Kevin Hollinrake MP said at the Dispatch Box that all compensation should be paid by August, barring those where a few details are not completed. However, on 28 January, the Secretary of State, Kemi Badenoch, said on the BBC that the deadline of August was not a priority and that getting governance sorted out at the Post Office was more important. I do not want to get into the arguments that she and Henry Staunton have been having over the past few days but this urge to get the compensation sorted remains an absolute priority for the victims. Can the Minister say who is right? Equally importantly, will the Government unblock the logjam inside the Post Office over what is a fair claim, which was the other key element of the announcements made at the beginning of the year?

I beg to move.

Baroness Thornton ›
(Lab)

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My Lords, I was pleased to put my name and that of my noble friend to this amendment. The noble Baroness, Lady Brinton, has given us a comprehensive introduction to this issue. Given that this is an issue of current discussion across the country, there is not much point in me going into detail on the rights and wrongs, as well as the injustices, that we all know the Horizon scandal involved. It is shocking; it is a scandal that we should all be aware of and seek to remedy as quickly as we can.

This amendment and the one before show that this Bill is important because of its inclusiveness—I look to the commissioner—and it is not the first time I have said that in this discussion. It is very important that, in the course of the Bill, we recognise the different sorts of victims that there are in terms of the way the state has behaved, the major catastrophes that people suffer, and the issues of the courts and our justice system. That is all to the good because we will, I hope, end up with an Act that will really serve victims in all of those areas well.

5.15pm

The important point about this amendment is this: it is clear that cover-ups and bad behaviour have been rife throughout the Horizon scandal. Dealing with those must not stop the compensation and the justice that the victims need. We must be able to go forward from this point to make sure that those victims get the compensation they need as quickly as possible. Although this may not be quite the right amendment—they are often not—I encourage the Minister to tell us, as he did in the previous discussion, how the Government intend to take this forward in a positive fashion.

Earl Howe >

(Con)

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My Lords, I am grateful to the noble Baroness, Lady Brinton, for her amendment, which, as she explained, would require the Government to publish a timeline for the payment of interim payments for victims of the Horizon scandal. As she knows, the amendment takes us back to a subject that the House has discussed several times in recent weeks. In all parts of your Lordships' House, there is a strong desire to see justice for the victims of the Horizon scandal—in particular, to see them receive prompt financial redress. The Government share that desire.

The effects of the scandal on some postmasters have been, to put it at its mildest, truly awful. Some of them have lost their livelihoods, their homes or their health—or even all three. Others have faced serious financial impacts. The noble Baroness's question is therefore extremely pertinent.

For reasons of history, there are three separate compensation arrangements in place; I hope that the Committee will allow me to put them on the record. One is for people who have had convictions for criminal offences overturned. A second, which is delivered by the Department for Business and Trade rather than the Post Office, is to top up the compensation settlement for unconvicted postmasters made at the end of the original so-called GLO High Court case, which exposed the scandal. The third—the Horizon Shortfall Scheme or HSS—is for postmasters who were neither in the GLO group nor convicted.

In two of the streams, we have recently announced fixed offers of settlement: £600,000 for those with overturned convictions and £75,000 for the GLO group. These fixed offers allow postmasters to receive substantial compensation without delay or hassle. Of course, those with larger claims will not generally want to accept these sums. They will instead, quite rightly, have their compensation individually assessed. For both groups, substantial interim payments are made promptly. Further payments are available to those facing hardship while their full claims are being assessed. We have undertaken to make first offers within 40 working days of receiving a completed application for the GLO scheme.

The HSS is already well advanced. All 2,417 of the people who applied by the original scheme deadline have had initial offers. More than 2,000 of them have accepted settlements and been paid. Late claims are still coming in—some stimulated by the ITV drama, in fact—and are being dealt with promptly.

However, two crucial drivers of the pace of compensation are not controlled by either government or the Post Office. First, the overturning of convictions has, of course, been in the hands of the courts, and it has been frustratingly slow. We believe that more than 900 people may have been wrongly convicted in this scandal, but, to date, only 97 of them have had their conviction overturned. The process has been not only slow but uncertain. In too many cases, the evidence has been lost or destroyed over time, and many postmasters have understandably lost all faith in authority and cannot face the prospect of yet another court case to clear their name.

That is why, on 10 January, the Government announced that they will be introducing legislation to overturn all the convictions resulting from this scandal. We recognise that this is an unprecedented step, but it is necessary if justice is to be done. I can tell noble Lords that, this afternoon, my honourable friend in another place has made a Statement about that legislation. We hope to introduce this legislation within a few weeks. I am sure that it will be widely supported across the House and in the other place, and that it will therefore be able to progress quickly. We hope to see it become law before the summer, with prompt compensation to follow.

That takes me to the second area where we do not have control of the timescale: postmasters and their lawyers need time to formulate claims and gather evidence, with some needing specialist reports from medical or forensic accounting experts. Setting arbitrary deadlines for the submission of claims would, I suggest, be deeply unfair to postmasters, and we therefore should not do it.

That is why the House recently and enthusiastically passed the Post Office (Horizon System) Compensation Bill, which implemented the Williams inquiry's recommendation to remove the arbitrary deadline of 7 August 2024 to complete the GLO compensation scheme. It remains the Government's goal to complete that scheme by August, but if postmasters need longer, that is fine.

The Government are determined to see financial redress delivered as quickly as possible for all postmasters, including those whose convictions will be overturned by the forthcoming Bill. However, setting a fixed timetable would entail rushing postmasters into major decisions about their claims and the offers they receive. I hope that, on reflection, the noble Baroness agrees that we should not do that, and will therefore feel able to withdraw her amendment.

The noble Baroness asked me a number of detailed questions. If she will allow me, I will write to her as fully as possible in response to her particular questions about legal advice, the Green Book, the logjam of claims and a number of others.

Baroness Brinton >

(LD)

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I am grateful to the Minister for his response. As ever, it was thoughtful and very helpful.

I laid the amendment principally because it seemed to me that there were two issues. The first was about everything being done, where possible, by August, which seemed encouraging but clearly is not going to be hit in many cases. The detail that I gave to the Committee in the speech is what worries me more: there seems to be a chasm between Post Office Ltd and the postmasters about what is eligible in damage. I do not think it is just about whether people can get access to information, because of this proviso. I will be grateful for any letter, but would the Minister be prepared to meet between Committee and Report to discuss the detail? The most urgent thing, from their perspective, would be a grant for legal advice, given the complexity of applying. If that can be speeded up in any way, shape or form, that would be enormously helpful.

I suspect I will bring something back on Report, though probably not the same thing at all. In the meantime, I beg leave to withdraw the amendment.

Amendment 135 withdrawn.

Amendment 136

Moved by

Lord Ponsonby of Shulbrede >

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136: After Clause 40, insert the following new Clause—

"Review: National Oversight Mechanism(1) The Secretary of State must launch a review into the merits of introducing an independent National Oversight Mechanism responsible for collating, analysing and addressing recommendations arising from the post death processes of investigations, inquests, public inquiries and official reviews following a major incident.(2) The review under subsection (1) must be launched within six months of the day on which this Act is passed.(3) The Secretary of State must publish and lay before Parliament a report summarising the findings of the review under subsection (1) within 18 months of the day on which this Act is passed."

Lord Ponsonby of Shulbrede >

(Lab)

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My Lords, this is a probing amendment to enable debate on the concept of a new national oversight mechanism. The amendment proposes:

"The Secretary of State must launch a review into the merits of introducing an independent National Oversight Mechanism responsible for collating, analysing and addressing recommendations arising from the post death processes of investigations, inquests, public inquiries and official reviews following a major incident".

With regard to public inquiries, there is no legal mechanism to require consideration, action or reasoned rejection of a recommendation made in the course of a statutory inquiry under the Inquiries Act 2005. In other words, recommendations made by a statutory public inquiry or a non-statutory inquiry have no legal force on the Government, public authorities, corporations or anyone else.

With regard to coroners' prevention of future death reports, a large proportion of public bodies that receive recommendations fail to respond, and analysis using the Preventable Deaths Tracker developed by researchers at the University of Oxford found that only 33% of all PFDs issued by coroners had expected responses published, with 29% of responses overdue. Further, the researchers found that

response rates to PFDs examined in 25 of their studies ranged only from approximately 10% to 60%, with no study resulting in a 100% response rate.

The Grenfell fire is a shocking example of this accountability gap. In 2009, the Lakanal House fire killed six people in a 14-storey tower block in Camberwell. Following the inquest into their deaths, the coroner, Frances Kirkham, made recommendations to the Secretary of State, the Mayor of London, the London Borough of Southwark and London Fire Brigade. These included making crucial improvements to building regulations, control room and incident command system training, awareness of the risk posed by cladding fire, and guidance on high-rise residential evacuation. In 2017, the Grenfell Tower fire killed 72 people in a 24-storey tower block in North Kensington. The Grenfell Tower inquiry exposed the fact that many of the Lakanal House recommendations were not implemented before the fire. Implementation was not considered to be urgent and was instead included in a medium to long-term programme of work.

During the inquiry, Dame Melanie Dawes, the former Permanent Secretary at the Department of Housing, Communities and Local Government, told the inquiry that

“there was no tracking recommendation put in place, something that I think was really important and there should have been”.

The lack of a mechanism was described as a gap in the Civil Service that

“could have happened in any department”.

The department itself stated that it missed the opportunity to look beyond recommendations and consider the widespread use of non-compliant materials on high-rise buildings and the associated risk of fire. That is just one example.

To address this accountability gap, the lobbying group Inquest, through me, is calling for the Government to establish a national oversight mechanism, which would be an independent public body responsible for collating, analysing and following up on recommendations arising from four post-death processes: investigations, such as those carried out by the Prisons and Probation Ombudsman, the Independent Office for Police Conduct or serious incident reviews; inquests; public inquiries; and official reviews into deaths, such as the Angiolini review into deaths and serious incidents in police custody. Inquest has put forward a mechanism by which this could be achieved, through the collation, analysis and follow-up of the data.

This amendment calls for a review into the processes and merits of creating such a mechanism. I look forward to hearing the Minister’s response and hope that he will commit to undertaking such a review. I beg to move.

5.30pm

Baroness Brinton >

(LD)

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My Lords, I am really grateful to the noble Lord, Lord Ponsonby, for raising this issue and laying this amendment. I declare my interest as the vice-chair of the All-Party Fire Safety and Rescue Group so his comments about the Lakanal House and Grenfell Tower fires really chime with me. From these Benches, my noble friends Lady Pinnock and Lord Stunell have both raised these issues repeatedly.

It is really important to remember that one of the big lessons that I hope we will now begin to learn from Grenfell Tower and the many other fires before it rests in Dame Judith Hackitt’s report on the construction industry and Grenfell Tower. She talked about the importance of the “golden thread” through every part of the construction. The same is true when things go wrong and it seems to me that a national oversight mechanism is exactly the golden thread that we need to ensure that we do not have to time and again relearn the lessons of disasters after they have happened. From these Benches, we support the amendment.

Lord Roborough >

(Con)

Share

My Lords, I thank the noble Lord, Lord Ponsonby, for this amendment and the noble Baroness, Lady Brinton, for speaking in support. The amendment would require the Secretary of State to conduct a review into whether to establish an independent national oversight mechanism to collate, analyse and address recommendations from investigations, inquests, public inquiries and official reviews

following deaths after a major incident.

In 2014, the House of Lords Select Committee published a post legislative scrutiny report on the Inquiries Act 2005. In their response, the Government agreed with the principle that bodies should set out their plans for implementing recommendations directed at them. When an inquiry's recommendations are directed at the Government, it is the responsibility of the lead department to determine how best to progress and implement the recommendations. An official review would follow the same principles.

Parliament has a crucial role in scrutinising the activities of government departments. Select Committees, in particular, hold individual departments to account, including in their response to recommendations made by statutory and non-statutory inquiries and reviews. The Government remain of the view that Parliament already has the ability to hold government departments to account on their response to and implementation of recommendations and that Parliament is best placed to carry out this function.

Noble Lords will also be aware of the Statutory Inquiries Committee that was set up by the Lords Select Committee very recently. It has been appointed to consider the efficacy of the law and practice relating to statutory inquiries under the Inquiries Act 2005. It may be well placed to consider the merits of an independent national oversight mechanism for statutory inquiries.

Turning to inquests, a coroner has a statutory duty to make a report to prevent future deaths if action should be taken to prevent or reduce the risk of future deaths. Recipients of PFD reports must respond to the coroner within 56 days of receipt, setting out what actions will be taken, or explaining any not taken. The Government in their response to the Justice Committee's 2021 report committed to consider the merits of a recommendation to establish a national mechanism to ensure that actions highlighted in PFD reports which could contribute to public safety and prevent future deaths are implemented. The Justice Committee is currently undertaking a follow-up inquiry into the coroners service and will revisit this issue; the Government are due to give evidence shortly.

In response to some of the points made by the noble Lord, Lord Ponsonby, and backed up by the noble Baroness, Lady Brinton, recipients of PFD reports, as I say, must respond to the coroner within 56 days. However, it is not the coroner's role to review whether —and if so what—actions should be taken in response to a report. This would be inconsistent with their status as independent judicial officers.

The Government in their response to the Justice Committee's 2021 report committed to consider the recommendation to establish a mechanism to ensure that actions in PFD reports which could contribute to public safety and prevent future deaths are implemented. The Justice Committee's follow-up inquiry into the coroners service will revisit issues around PFD reports on preventing death and improving public safety.

While I understand the intent to ensure that the merits of setting a national oversight mechanism are considered, it is likely this would duplicate ongoing parliamentary inquiries into these matters. I therefore ask the noble Lord to withdraw this amendment.

Lord Ponsonby of Shulbrede ›
(Lab)

Share

I thank all noble Lords who have spoken in this very brief debate. I want to pick up a point made by the noble Baroness, Lady Brinton, about the golden thread of establishing a mechanism to ensure that any findings which come out of either public inquiries or coroners' reports are tracked through and implemented.

I quoted a civil servant as saying that the established mechanisms have not worked, and the example I gave was of the cladding on Grenfell Tower. The Minister spoke about considering whether to establish a mechanism for reviewing PFD reports and coroners' reports. When will that review be complete and does the noble Lord believe that that review will adequately establish some sort of overall mechanism for dealing with coroners' recommendations?

To circle back a bit to the public inquiries point, the Minister said that Parliament is best placed to carry out the functions of public inquiries and look at recommendations. I have to say that I really cannot think of Parliament looking at cladding issues. There needs to be a more systematic way of dealing with these matters to ensure that there is that golden thread that the noble Baroness, Lady Brinton, talked about, so we have some comfort that these processes are being properly reviewed and implemented. I beg leave to withdraw the amendment.

Amendment 136 withdrawn.

Clause 41: Public protection decisions: life prisoners

Amendment 137

Moved by

Lord Burnett of Maldon >

Share

137: Clause 41, page 39, line 26, leave out from second "the" to end of line 27 and insert "Divisional Court of the King's Bench Division"

Lord Burnett of Maldon >
(CB)

Share

My Lords, in the absence of the noble and learned Lord, Lord Thomas of Cwmgiedd, who is abroad at the moment, I move this amendment and will speak to the others in this group, save for Amendments 146A, 174 and 175 which stand in the name of the noble Baroness, Lady Hamwee.

Clause 44 enables the Secretary of State to refer a decision of the Parole Board to release what is known as a top-tier prisoner for a judicial decision either to affirm or to quash a decision of the Parole Board. Top-tier prisoners are those who have committed the most serious offences. The Bill identifies the Upper Tribunal as the court to which referrals will be made, save in cases where there is sensitive material, in which case the court is the High Court.

The principal amendment in this group, which would amend Clause 44, is to propose that all referrals go to the High Court; in particular, a

"Divisional Court of the King's Bench Division".

The other amendments that we propose make necessary changes elsewhere. The reason for proposing these amendments is to ensure that the judicial decision is made by a court whose members are well equipped by experience to make the necessary assessment of risk.

The background is that the cases will necessarily involve serious offending and be referred by the Secretary of State because of at least an unease about the decision of the Parole Board. That Parole Board will be made up of individuals with considerable experience in evaluating risk in the context of criminal offending. Any review or reconsideration should be conducted by a court that comprises judges with similar such experience. None of the chambers of the Upper Tribunal currently has members with that necessary experience, but the High Court does.

A Divisional Court of the King's Bench Division deals with criminal cases in the High Court. It is almost always composed of judges who sit in the Criminal Division of the Court of Appeal; that is, a Lord or Lady Justice and a High Court judge. Those judges have extensive criminal experience; in particular, when dealing with sentencing, either at first instance as trial judges or on appeal. They are used to making decisions which require them to evaluate risk and, in particular, whether an offender is a dangerous offender, which leads to a suite of different sentencing options. In those circumstances, they are well suited to the task which the Bill will empower the Secretary of State to require a court to undertake.

The Bill itself envisages that the High Court will perform this role in some cases. This amendment suggests that it would be more effective, and deliver the outcome that the Bill seeks, were the High Court always to be the destination for these referrals. I beg to move.

Lord Marks of Henley-on-Thames >
(LD)

Share

My Lords, I agree with every word uttered by the noble and learned Lord, Lord Burnett of Maldon. I am sure that the same words, or words to similar effect, would have fallen from the lips of the noble and learned Lord, Lord Thomas of Cwmgiedd. They echo the sentiments of a number of those who have briefed noble Lords on these issues relating to the Parole Board.

I will be brief. There is one overriding principle, which is that the Parole Board should be, in effect, an independent, quasi-judicial body. A number of concerns have been expressed about the prospect of the Secretary of State having the power to refer decisions of the Parole Board to another body. One reason for the amendments in the name of my noble friend Lady Hamwee, to which I will turn shortly, is that concern.

The idea that this jurisdiction to consider referrals by the Secretary of State should be a matter for the Upper Tribunal, which is not a body involved with the prison system at all—it has, as the noble and learned Lord pointed out, no relevant chamber—and is not concerned with the sentencing, treatment or release of offenders, is an odd one. That decision should plainly be, we would suggest, the decision of a court used to dealing with criminal justice and with the sentencing and imprisonment of offenders. Loosely stipulating that it should be the High Court, without the division named, or the Upper Tribunal is wrong.

5.45pm

The Divisional Court is plainly, as the noble and learned Lord has said, the appropriate body for the task. I invite the Minister to explain why the Bill, as drafted, allocated these cases to another body with no relevant experience or expertise when there is an obvious court to decide these cases—a view powerfully endorsed in these amendments by two former Lord Chief Justices with a great deal of experience and expertise in precisely this area.

In addition to my support for the noble and learned Lords' amendments, I note that my noble friend Lady Hamwee has tabled amendments to Clauses 44 and 45, in relation to the whole question of the referral of release decisions by the Secretary of State to a court or the Upper Tribunal for life prisoners and fixed-term prisoners respectively. My noble friend is now here but both those amendments and the consequential amendments in her name would provide that the clauses should not come into force until the Secretary of State has laid a report before Parliament regarding their implementation.

Our suggestion is that this is a new process or procedure, which has not been adequately researched. It breaches the fundamental point: that the Parole Board is, in effect, a quasi-judicial body exercising an independent jurisdiction, whereas if the Secretary of State is going to have the power to refer it should be to a Divisional Court, as we have suggested. Before these clauses are brought into effect, there should also be a report laid before Parliament which it can consider. This departure would be delayed until that report had been laid and considered.

Lord Bach >
(Lab)

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My Lords, briefly, I support the amendments moved and spoken to in this group by the noble and learned Lord, Lord Burnett of Maldon, and the noble Lord, Lord Marks. I spoke on this matter at Second Reading and agreed with what the noble and learned Lord, Lord Thomas of Cwmgiedd, said in his speech then.

The Committee may know that, along with others, including the noble and learned Lord, Lord Burnett of Maldon, I have put my name to later amendments that question the changes proposed by the Government to the Parole Board. In my view, those changes attack pretty fundamentally the independence of that board and allow the Secretary of State to interfere in these matters to an extent that affects the separation of powers. As a rule, I argue that it is never a good idea, however tempting for Governments, for the Executive to interfere with matters that should be the role of the judiciary. Taken as a whole, these changes are unnecessary and overcomplex, and will prove to be extremely costly.

Today, we are discussing the amendments so well put by the noble and learned Lord, who speaks with such huge authority; I am pleased to support them. They argue that the Upper Tribunal is entirely the wrong body to hear these cases. The Government would be well advised, with respect, to listen to him, and to remind themselves of the powerful speech made by the noble and learned Lord, Lord Thomas of Cwmgiedd, at Second Reading. It is not often that this House is privileged to have the support of the last two Lord Chief Justices on a matter that they are profoundly expert in. I ask the Minister, who is always very reasonable, to think very carefully about how powerful the case that has been made this afternoon is.

Of course, I strongly agree with the amendment spoken to by the noble Lord, Lord Marks, on the necessity of a report from the Secretary of State on the implementation of these proposals, which I consider to be pretty disturbing on the whole. I ask the Minister, when he replies, to consider carefully where these amendments are coming from.

Baroness Hamwee ›

(LD)

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My Lords, I will speak with the leave of the Committee and with many apologies; I was delayed in a committee. Amendment 143A is a probing amendment to seek to understand whether the Secretary of State will issue guidance on these matters, and if so, what that guidance will include. The Prison Reform Trust is particularly concerned about this, being aware that an overturned release decision would be likely to undermine public confidence in the parole system and so on. I am sure that the Minister will want all the actors in the sector to understand how these arrangements are intended to work and how they can be scrutinised.

Lord Ponsonby of Shulbrede ›

(Lab)

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My Lords, we also support this group of amendments. I want to reiterate the points made by my noble friend Lord Bach. You could not have had two more eminent Members of this Committee to table these amendments. The noble and learned Lords, Lord Burnett and Lord Thomas, are familiar with these types of decisions. I do not think I can add to the weight of the arguments put forward by the noble and learned Lord, Lord Burnett.

The only point I will make is about process. If the Minister says that he wants to think about this—I do not know what he is going to say—then it would be very helpful to know his thoughts before Report. From what I have heard of the argument, it seems that the Government have an uphill battle trying to defend the current position. If the Government are minded to think about this again, we really need to know what that is before Report.

Lord Bellamy ›

(Con)

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My Lords, the amendments proposed by the noble and learned Lords, Lord Burnett and Lord Thomas of Cwmgiedd, would mean that parole referrals under the new power in the Bill would be sent to the Divisional Court of the King's Bench Division, which is part of the High Court, instead of the Upper Tribunal, which is currently used for most cases—although not for national security cases.

Noble Lords know that the Bill introduces a new power to allow the Secretary of State to refer a top-tier case—that is a case where the index offence was murder, rape, causing or allowing the death of a child, or serious terrorism—for a second check by an independent court if the Parole Board has directed release. The question is which court that should be. Noble Lords may recall that at one stage it was suggested—I think by a Select Committee—that it should be the Court of Appeal Criminal Division. The Government consulted the Judicial Office in June 2023. The result of that consultation was that a preference was expressed for the Upper Tribunal to hear those cases. The Upper Tribunal has wide-ranging powers under Section 25 of the Tribunals, Courts and Enforcement Act 2007, facilitated by the Upper Tribunal rules, which essentially gives it the same powers as the High Court. It has experience of hearing oral evidence. The Government's view, in the light of the consultation with the Judicial Office, was that the Upper Tribunal was the appropriate court.

None the less, the Government feel that it is obviously desirable to sort this issue out in a sensible way and I am very happy to consider it further. I am even happier to say that the Government's reflections will be shared before Report, so that everybody can consider their position. There should not be any particular controversy on this kind of point; it is a rather specialised point, if I may put it like that.

I turn to the amendments tabled by the noble Baroness, Lady Hamwee, and spoken to on her behalf by noble Lord, Lord Marks. The Government entirely agree with her that the processes ahead of us and how we are going to manage it should be very fully understood by all actors. I will briefly explain how the Government see things at the moment. First, the procedural elements of the new process may require amendments to the Parole Board rules and the tribunal rules—or the rules of whatever court we determine. That must be scrutinised by Parliament and go through a period of consultation. There will have to be a period of training of judges. We know that the referral process will need to be transparent and speedy. Work is currently in train as to how far this will be operationalised from the point of view, first, of maintaining public confidence and, secondly, on what basis the Secretary of State refers things to the relevant court—to use a neutral phrase for the time being.

Currently, the Government are working through exactly how the relevant tests would be applied. The Government propose to publish their policy on how the legislation will be applied, outlining how cases will be selected for referral and ensuring that prisoners, and importantly victims, are fully informed of who will be in scope. I envisage a transparent and open process by which the details of the new regime are sorted out.

Baroness Hamwee ›

(LD)

Share

Could I follow that up before the Minister goes on to the next point? Does he anticipate that there will be consultation with the sector—it is a very big sector of course—on the various points that he has quite rightly referred to? That would go down rather better and be much more useful than producing a policy in its final form and saying, “Here we are”. A draft policy or ideas for consultation would be welcomed.

Lord Bellamy ›

(Con)

Share

My Lords, I hear what the noble Baroness says, and it sounds entirely reasonable. I cannot, at the Dispatch Box, go any further than I have already gone, but the point is well made.

On that basis, I hope the Committee will be satisfied that the Government intend to be fully transparent and work co-operatively with the development of this new process.

6.00pm

Lord Burnett of Maldon ›

(CB)

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I thank the Minister for his response. It is a delight to see him back in his place. I also thank those who spoke in support of the amendment put down by the noble and learned Lord, Lord Thomas of Cwmgiedd, with my support.

I was intrigued by the Minister’s reference to consultation with the Judicial Office last June. I was, of course, in post as Lord Chief Justice then. For administrative purposes, the Judicial Office is the alter ego, as it were, of the Lord Chief Justice. It may well be—I put it no more pointedly than this—that Homer may have nodded in June, because I had thought that the proposal of the noble and learned Lord, Lord Thomas, which is supported by me and elsewhere, was not controversial. If there has been a mix-up in communication historically on that, I apologise, wearing my previous hat. I am grateful to the Minister for indicating that the Government will be prepared to consider this matter further. I am of course entirely at the Minister’s disposal to discuss any proposals that may commend themselves to the Government to be brought forward on Report. I beg leave to withdraw the amendment.

Amendment 137 withdrawn.

Clause 41 agreed.

Clause 42: Public protection decisions: fixed-term prisoners

Amendment 138 not moved.

Clause 42 agreed.

Amendment 139 not moved.

Schedule: Offences relevant to public protection decisions

Amendment 140 not moved.

Schedule agreed.

Clause 43 agreed.

Clause 44: Referral of release decisions: life prisoners

Amendments 141 to 143A not moved.

Clause 44 agreed.

Clause 45: Referral of release decisions: fixed-term prisoners

Amendments 144 to 146A not moved.

Clause 45 agreed.

Clause 46: Licence conditions of life prisoners released following referral

Amendment 147 not moved.

Clause 46 agreed.

Clause 47: Licence conditions of fixed-term prisoners released following referral

Amendment 148 not moved.

Clause 47 agreed.

Amendment 148A

Moved by

Baroness Thornton >

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148A: After Clause 47, insert the following new Clause—

"Licence conditions for serial and serious harm domestic abuse and stalking perpetrators under Multi-Agency Public Protection Arrangements(1) A condition of the release and licence of serial and serious harm domestic abuse and stalking perpetrators must be included in the Multi-Agency Public Protection Arrangements.(2) The Criminal Justice Act 2003 is amended as follows.(3) In section 325 (arrangements for assessing etc risk posed by certain offenders)—(a) in subsection (1), after ""relevant sexual or violent offender" has the meaning given by section 327;" insert ""relevant domestic abuse or stalking perpetrator" has the meaning given in section 327ZA;";(b) after subsection (2)(a) insert—"(aza) relevant domestic abuse or stalking perpetrators,".(4) After section 327 (Section 325: interpretation) insert—"327ZA Interpretation of relevant domestic abuse or stalking perpetrator (1) For the purposes of section 325, a person ("P") is a "relevant domestic abuse or stalking perpetrator" if P has been convicted of a specified offence or an associate offence and meets either the condition in subsection (2)(a) or the condition in subsection (2)(b).(2) For the purposes of subsection (1), the conditions are—(a) P is a relevant serial offender; or(b) a risk of serious harm assessment has identified P as presenting a high or very high risk of serious harm.(3) An offence is a "specified offence" for the purposes of this section if it is a specified domestic abuse offence or a specified stalking offence.(4) In this section—"relevant serial offender" means a person convicted on more than one occasion for the same specified offence, or a person convicted of more than one specified offence;"specified domestic abuse offence" means an offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning defined in section 1 of the Domestic Abuse Act 2021;"specified stalking offence" means an offence contrary to section 2A or section 4A of the Protection from Harassment Act 1997.(5) Within 12 months of the day on which the Victims and Prisoners Act 2024 is passed the Secretary of State must commission a review into the operation of the provisions of this section.""

Baroness Thornton >
(Lab)

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It is a great pleasure to move Amendment 148A and speak to Amendment 148B. I thank the noble Lord, Lord Russell, and the noble Baroness, Lady Brinton, for their support in this suite of amendments, both of which deal with stalking. They insert two new clauses into the Bill, and they are part of the whole suite of amendments on this.

I will be brief because my noble friend Lady Royall is in the Committee today, and she has been tireless over the years in championing this cause and using every opportunity to find remedies to deal with this pernicious crime, almost always perpetrated by men on women, wrecking lives, sometimes with fatal consequences. These two amendments, and the group following this concerning MAPPS in the name of my noble friend Lord Ponsonby, seek to bring further coherence to law enforcement, record sharing and protection for these victims.

If only the police could see stalking for what it truly is—often a stepping stone on the route to murder—perhaps they would take it more seriously. At present, I am afraid they do not—certainly, it is patchy—and stalking victims are dismissed too easily and too often. They are told, “It’s just online. It will die down. Change your number. Delete your social media accounts. It’s just a lovers’ tiff”.

I will give just one example and then sit down. When the Derbyshire police accepted that they failed Gracie Spinks—who was murdered after reporting her stalker to the police—and when they apologised to her family and promised that lessons would be learned, I could almost feel the weariness of victims, their families, the campaigners and the Victims’ Commissioner in saying, “How often do we have to be told that lessons can be learned when they haven’t been?” That is what these amendments and the ones we have already discussed are about: they seek to make a change. I beg to move.

Lord Russell of Liverpool >

(CB)

Share

My Lords, I was happy to put my name to these to these two amendments, and I am equally happy that the noble Baroness, Lady Royall of Blaisdon, is here. She will go into some current and fairly shocking detail about some recent examples of stalking that show that it is as pernicious and present as ever.

Both of these amendments are proposed in the clear and distinctly uncomfortable knowledge that I think all parties acknowledge: we have some way to go, to put it mildly, before we can say, with any degree of truth, that we have the measure of the huge and insidious problem that is stalking. These amendments propose some changes to MAPPA, including perpetrators in MAPPA, as a condition of potential release and licence, and the creation of a register to make perpetrators subject to notification requirements as a condition of release. The important common theme to both these amendments is the requirement for the Secretary of State to commission reviews to look at the issues and challenges around stalking in a comprehensive and informed manner.

But what is repeatedly and continuously frustrating is that we have proper on-the-ground evidence of approaches to stalking that are proving to be effective. In particular, there is the multi-agency stalking intervention programme—MASIP—which has marked a significant advance in our ability to anticipate, identify and tackle the complex issue of stalking. The MASIP model, thankfully funded by the Home Office, has pioneered this approach in London, Cheshire and Hampshire, and it works. Early evidence is compelling and extremely positive. So one just asks oneself: why is it not possible to do this more widely? The approach co-ordinates activity around both the victim and the perpetrator, and it incorporates an essential pathway to address the fixation and obsession in perpetrators that might be contributing to their stalking offending. The final evaluation proves that it works, so why is it so difficult, first, to acknowledge best practice when it is staring one in the face and, secondly, to implement it more widely?

One frustrating thing—here I refer to an article in today’s newspaper—is some news about the Government’s end-of-custody supervised licence programme, which was introduced in the autumn to relieve some of the huge pressure on our overcrowded jails, enabling perpetrators to be released earlier than their recommended sentence. It was put in as a temporary scheme, but it has apparently now been extended indefinitely. That does not mean for ever; it just means that the Government have given no indication of how long they intend to continue to allow this degree of leniency, the sole reason for which is the huge pressure on our prisons.

The Government rather inelegantly call this the problem of demand and supply in the prison population. If you were to try to explain that terminology to victims, they would find it slightly difficult to understand why supply-side economics should govern the early release of some perpetrators, particularly of domestic abuse and stalking, in many cases without the victims knowing what is going on.

We will make concerted progress only when we acknowledge the complexity of stalking and finally design a proactive and joined-up approach that is implemented consistently across all jurisdictions and agency boundaries and effectively identifies, outlaws and penalises any evidence of the unfairness and madness of what we are allowing today—effectively, a postcode lottery for victims.

Baroness Brinton >

(LD)

Share

My Lords, I have signed Amendments 148A and 148B in this group. I thank the noble Baroness, Lady Thornton, for her introduction and look forward to hearing from the noble Baroness, Lady Royall. The first amendment sets out an important addition to the arrangements for Multi Agency Public Protection Arrangements, or MAPPA. We will hear about the detail of these amendments from the noble Baroness, Lady Royall, but I want to add that, throughout this Bill and its predecessors in your Lordships' House, including the Domestic Abuse Bill and the Police, Crime, Sentencing and Courts Bill, we have repeatedly asked for more protection for people who have been victims of serial domestic abuse and, in particular, stalking.

Laura Richards's ground-breaking work over many years in developing the dashboard profiling and documenting the most serious repeat offenders has changed the way in which specialist police teams view these perpetrators, but—I hesitate to say this for probably the third Bill running—MAPPA are still not applied consistently across police forces. One of the aims of these amendments is to make sure that happens. As we have heard, repeat perpetrators are far too often allowed to commit further crimes, including murder. Shockingly, a couple of years ago police research found that one in 12 domestic rapists was raping outside the home. A violent and controlling man leaving a partner does not mean that the violence ends. Many have extensive histories of abusing multiple women.

Amendment 148A sets out the licence conditions for serial and serious harm domestic abuse and stalking perpetrators, saying that anyone so identified should be part of a MAPPA. Proposed new subsection (4) sets out the definition of a relevant domestic abuse or stalking perpetrator. Similarly, the other amendment says that we must have an effective register. Non-domestic stalkers always seem to be left off. I always raise this problem in your Lordships' House; there is an assumption that stalking is carried out only by a current partner or an ex-partner—or somebody who would like to be a partner and is therefore regarded as domestic—but about 40% of stalking cases have nothing to do with that at all. As we see from many stories in the papers day after day, these days people such as celebrities face massive amounts of stalking and do not get protection. Often, when people are arrested, it appears that they have stalked others as well.

The noble Baroness, Lady Thornton, made passing reference to the GRO-C case. Derbyshire police and the police force that investigated its failings have learned from that, but we need consistency. I will give one recent example from GRO-C Last month a victim, GRO-C had been back in contact with her about her living hell over seven years. She is terrified that her ex will kill her children. In 2018 he was arrested for battery of her eight year-old daughter and an assault on her while she was holding her other daughter. He was convicted in 2019 and received a suspended sentence and restraining order. The police did not arrest him for stalking or coercive control. They told her that, because she had moved away, they would not arrest him for stalking and they would amend the restraining order to a lifelong RO. He has repeatedly breached it. As we discussed on earlier amendments, he then started family court proceedings.

I will not go on, except to say that she has had to flee three more times, and each time has hit problems with the new police force. There has been no consistency. He has a history of abusing others—exactly the point I made about police research finding that one in 12 domestic rapists rapes outside the home. This woman has no solution nearby to stop him continuing to behave in this way and mess up her life and those of her children. We need MAPPA to work effectively. These amendments are the first step in that direction.

6.15pm

Baroness Royall of Blaisdon >
(Lab)

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My Lords, I support Amendments 148A and 148B. I am late to participate in this Bill, for which I apologise, but, as has been said, I am not late to debates on the insidious crime of stalking—a gateway to rape, serious harm and murder in slow motion. I have read the excellent exchanges on earlier amendments to this Bill on stalking.

Stalkers must be put before the courts, and sentences must reflect the seriousness of the crime. When stalkers are released from prison, given the nature of their obsessive and fixated behaviour, stringent measures must be placed on them to close down all opportunities to reoffend. As part of this, they must be automatically managed by MAPPA and included on ViSOR, soon to be MAPPS, so that their information can be shared and accessed nationally.

In the past I have often cited the horrific case of GRO-C . GRO-C almost succeeded in murdering her in her home in 2014. He is up again before the Parole Board for release this year. GRO-C is terrified for herself and her children. GRO-C was not rehabilitated 10 years prior to her attack after the horrific abuse of an ex who was a serving West Midlands police officer. He went on to abuse other women until he targeted GRO-C. Currently, GRO-C knows very little about the release plan. GRO-C has never admitted trying to kill GRO-C so how can he be deemed safe for release? She does not know whether she is marked at high risk, whether he is still vengeful towards her or whether he will be tagged. No measures have been put in place for her, and she feels like a sitting duck.

How can this be right? He must be added to ViSOR and managed by MAPPA, and every opportunity for his reoffending against GRO-C her children and future women must be closed down. Many stalkers change their name by deed poll. He must not be allowed to do that either. Positive obligations must be placed on him, including not to change his name. I would be grateful for an assurance from the Minister that this case will be looked at so that GRO-C does not have to live in fear.

In January there were two horrific cases of stalking by two vengeful men. Thirty year-old GRO-C was shot by armed officers in Southwark after he broke into the intended victim's home. He was armed with crossbows, a knife, a hatchet and a sword and was wearing body armour. There was no doubt that he was there to kill the victim, and most likely others if they got in his way—people who might have been trying to protect her. He had already threatened the police. As soon as I heard about this case, I wondered about his background. No one wakes up one day and starts behaving like this in the third decade of life. From everything I have learned about male violence towards women and children, I believed that he would have a history.

Sure enough, it came to light that he was a convicted stalker. He had been convicted of stalking a woman last June and was subject to a five-year restraining order. Croydon Magistrates' Court heard last year how GRO-C had entered the victim's bedroom without consent, sent text messages demanding that she open her door to him and described his vivid sexual fantasies to her. He pleaded guilty, but was spared a custodial sentence with a 16-week suspended prison sentence; he was ordered to undergo 12 months of supervision and carry out 120 hours of community service.

He was the most dangerous type of stalker—a predatory stalker with sexual fantasies that he was acting on when he broke into the victim's bedroom. He was one of the rare few who are arrested and charged but, rather than put him before the court for a Section 4A stalking offence for putting the victim in fear of her life, and despite his being one of the most dangerous types of stalker, the CPS put him before a magistrates' court on a Section 2A stalking charge. Notwithstanding the wrong charge, he clearly should have been put on a register.

In another case, on 31 January a woman and her two children were attacked by GRO-C near Clapham Common. He threw a corrosive alkaline substance at the woman, who we now know was in a relationship with the suspect. She was there with her daughters; she suffered what are likely to be life-changing injuries. Five police officers were injured as they responded, as were four members of the public. This attack was targeted, pre-planned and premeditated. GRO-C stalked the victim and intended to cause her maximum distress, pain and suffering when he threw that corrosive substance at her and her two girls. He then picked up the three year-old girl and tried to kill her.

There is always a history. In 2018, GRO-C was convicted of one charge of sexual assault and one of exposure, before being granted asylum in 2020. He received a nine-week jail term, suspended for two years, for this sexual assault and, for the exposure, 36-weeks' imprisonment to be served consecutively—which was also suspended for two years. Why was he not included on ViSOR? This has been repeatedly raised following countless horrific murders, including those of GRO-C GRO-C and her 11 year-old daughter GRO-C and GRO-C whose 14 year-old daughter was present when GRO-C shot her mother dead. GRO-C had a history of abusing and stalking his ex; he broke into her house in the middle of the night wearing gloves and armed with a knife. He pleaded guilty to affray and received a suspended sentence—this was stalking. GRO-C also reported him to the police for coercively controlling and stalking her and her daughter. The abuse escalated when she finally left him for good.

Separation is the highest risk time for a woman fleeing a coercive controller and stalker. We know from research and analysis of domestic homicides that if a stalker makes a threat—which GRO-C did—one in two stalkers acts on that threat; that is 50%. These are the most dangerous of perpetrators, and yet his violent history was not joined up by the police. He should have been on a register, which would mean that they had to check on the perpetrator's history.

GRO-C and her 11 year-old daughter, GRO-C were stabbed to death in my home city of Gloucester, on 28 May 2018, by GRO-C . He had a history of assaulting a previous partner and her mother, in front of two children. He received a suspended sentence for this very serious offence. GRO-C was a fantasist who was £28,000 in debt, and he coerced GRO-C into putting her income into his bank account. She reported him to the police. She was too scared to pursue a prosecution but she did ask about his history, using Clare's law. She was told that it could not be shared, and she was sent away. Days before the murders, GRO-C learnt that GRO-C

was cheating on her and she told him to leave the house. He escalated his behaviour and stabbed GRO-C 18 times and her 11 year-old daughter 24 times. Women are not told about these dangerous and violent men's histories even when they report serious violence and abuse at their hands.

A new database, MAPPS, is being developed, which will replace ViSOR, and we have MAPPA, the public protection panels which police, prison and probation officers, and other agencies attend. Stalkers must be proactively identified, assessed and managed by MAPPA. Stalking experts must attend MAPPA meetings to ensure that these dangerous men are diagnosed, assessed and managed. The same tactics must be applied to serial and dangerous domestic violence perpetrators and stalkers as to organised criminals and sex offenders. Early identification, assessment and management are vital to cut off opportunities for them to cause harm, and to ensure that they face the consequences of their actions.

Currently, the law relies on victims to report the individual crimes, and the police do not flag and tag serial and high-risk perpetrators. Instead, they focus on the victims—and this does not happen with any other crime. Police must index and share information with victims about serial abusers. Each police force must proactively identify 10 to 20 serial and dangerous domestic abusers, ensure that their information is included on the local police intelligence database, and refer cases to MAPPA. Convicted stalkers must be placed on ViSOR. The postcode lottery mentioned by the noble Lord, Lord Russell, must end.

I hope the Minister does not refer to guidance, which is so often a response to questions about stalking. I hope we are not told that more lessons need to be learned; too many women have been murdered. We know what needs to be done. We do not need guidance, we need action.

The extraordinary Laura Richards, who has done more than anyone else in the world to try to protect women and their children from stalkers, started a petition to include serial domestic abusers and stalkers on ViSOR and be managed by MAPPA. Some 274,698 people have now signed this petition, including victims, bereaved families and professionals. I ask the Minister: when will the Government act?

Baroness Newlove >

(Con)

Share

My Lords, I support these amendments, and I am so glad that the noble Baroness, Lady Royall, is back where she belongs, speaking on a topic that she is so passionate about.

Laura Richards has been mentioned by many speakers, and social media has a good way of reacting: I have her on Instagram as we are speaking, to give me some pointers, even though she is in California. Laura Richards is the expert on all this, and her patience to fight for victims over the years is commendable. She said she knows there is going to be change and she keeps doing it for victims—I admire this lady.

In the year ending March 2022, only 1.4% of reports to police about stalking ended with the stalker being convicted. That says a lot about how seriously stalking is taken by the very agencies that are supposed to protect victims. Most stalkers never see the inside of a prison cell; instead, they receive fines or community or suspended sentences, as has previously been spoken about. Really, for me, it is about listening to the human side of all these cases, and that is what we must never forget. It is not just about lessons learned or guidance. These are not items we pick up from supermarket shelves; these are human lives—people who have been brutally murdered, after several years of absolute hell, by someone who has done it on more than one occasion.

I really want to understand why the Government will not look at this register seriously. I spoke in the Domestic Abuse Bill when that came through. This has to be the end of it all. Instead of guidance, we must have proper risk management of stalkers and domestic abusers because, at the moment, it is virtually non-existent for convicted, or unconvicted, men who pose such a huge risk to women and children—now more than ever, we need to make sure that they feel safe and listened to. These are psychopathic people who do horrendous crimes to humans, and families have to pick up the pieces.

I am concerned about GRO-C and I have picked up on certain things that my friend, the noble Baroness, Lady Royall, has mentioned. I will take that offline, because I sympathise with not having any control. As somebody who is still going through the criminal justice and parole system, I am very interested in the next stage of the Bill, which is about parole, and what it does and does not do. The victim has no control, or right to know what the offender is doing. We cannot find out what is going on, but the offender knows exactly where the victim is, because of exclusion zones and everything else. I do not speak for anyone else but as a victim who

is watching out, for my three daughters, for offenders who are going to be released. When we are talking about stalking laws, this is important, because having no control more or less means that the victim has to shape their life around safety, whereas the system should protect victims more than ever.

Lord Roborough >

(Con)

Share

My Lords, I thank the noble Baroness, Lady Thornton, for her amendment relating to Multi Agency Public Protection Arrangements, and all noble Lords who have contributed to this heartfelt debate. These are horrific offences, taken with the utmost gravity by the Government.

Amendment 148A seeks to include relevant domestic abuse and stalking perpetrators on licence within the remit of management under Multi Agency Public Protection Arrangements—MAPPA. That would create a legal requirement on the police and the Prison and Probation Service to assess and manage the risks posed by individuals whose offending has taken place in the context of domestic abuse or stalking, and who either have more than one conviction of this nature or are assessed as posing a high risk of serious harm.

Amendment 148B seeks to make amendments to the Sexual Offences Act 2003, imposing on domestic abuse and stalking offenders the same requirements that apply to registered sex offenders. This would require the offender to report personal information to the police, including where they are living, their bank account details and passport details.

The Government agree that robust management of perpetrators of domestic abuse and stalking is crucial to help keep the public safe. We completely agree with the spirit of these amendments; however, we believe the objectives can already be met through current provision and policy.

6.30pm

On Amendment 148A, there is already existing legislation where individuals who are convicted of specified violent offences and sentenced to 12 months' imprisonment or more are automatically eligible for management under MAPPA category 2. These offences include domestic abuse related offences such as threats to kill, actual and grievous bodily harm, attempted strangulation, as well as stalking including fear of violence. The list is kept under review; for example, in recognition of the seriousness of the offence, we are legislating in the Criminal Justice Bill to ensure that offenders convicted of controlling or coercive behaviour will be automatically managed under MAPPA.

Noble Lords may question why all perpetrators of domestic abuse and stalking cannot be managed under MAPPA. We need to ensure that the MAPPA framework, and the resources of the police, prison and probation services under the framework, focus on the most serious perpetrators, thereby ensuring that resources are targeted at those who pose the greatest risk. As committed to during the passage of the Domestic Abuse Act, we strengthened the Secretary of State for Justice's statutory MAPPA guidance to include a chapter dedicated to domestic abuse and stalking. It mandates that all domestic abuse and stalking offenders who do not qualify for automatic MAPPA management must be considered for discretionary management known as category 3.

The Government have also worked with MAPPA agencies to improve practice, including the publication of a thresholding document to assist practitioners making the decisions. I can report that we have since seen a steady increase in category 3 management, with a rise of 37% in the last reporting year. We will continue to monitor the numbers of discretionary cases via the published MAPPA annual reports and to work with MAPPA agencies to develop practice in this area.

On the points made by the noble Lord, Lord Russell of Liverpool, to be automatically eligible for management under MAPPA, there must be a conviction for a sexual, violent or terrorist offence, and the individual must either be subject to notification requirements under the Sexual Offences Act 2003 or be serving a sentence of 12 months' imprisonment or more. MAPPA management is available for only those perpetrators who have been convicted of or cautioned for an offence. Where the sentence is shorter but there is concern about the risk posed, a perpetrator can be managed under MAPPA on a discretionary basis. We have strengthened statutory guidance—I apologise to the noble Baroness, Lady Royall—to clarify that MAPPA management should be considered in all domestic abuse and stalking cases. Successive annual statistics indicate a rise in the number of discretionary cases, and the majority of the 42 MAPPA areas in England and Wales report an increase in the number of cases of domestic abuse managed under MAPPA.

On Amendment 148B, also in the name of the noble Baroness, Lady Thornton, the Government believe there are already provisions in place that will allow for information on perpetrators to be collected and used to manage risk. All individuals released on licence are subject to standard conditions for the duration of their sentence which include the requirement for perpetrators to inform their

probation officer of any change of name and contact details, and to stay only at an address approved by their probation officer. There are numerous additional licence conditions which can be imposed to address specific risk factors. Breach of a licence condition can result in the individual being recalled to custody.

For individuals who are not subject to licence supervision, noble Lords may be aware that the Domestic Abuse Act 2021 introduced provisions for domestic abuse protection orders. These orders—which will be piloted in the spring—will allow for notification requirements to be imposed on perpetrators, of which breach will be a criminal offence. Domestic abuse protection orders are a civil order and can be imposed without a conviction, providing an opportunity to protect a greater range of victims than the proposed amendment. Piloting will allow us to evaluate and test the effectiveness and impact of the new model ahead of an expected national rollout.

Similarly, we introduced stalking protection orders—SPOs—through the Stalking Protection Act 2019 which can impose any prohibition or requirements that the court considers necessary and also impose notification requirements. Breach of both domestic abuse protection orders and stalking protection orders can result in up to five years' imprisonment.

On another point made by the noble Lord, Lord Russell of Liverpool, we agree that the implementation of measures to protect victims from harm should be reviewed to ensure they are fit for purpose. That is why we have committed to fund an external evaluation partner throughout the duration of the DAPN and DAPO pilot before taking a decision on rolling it out nationally and will continue to monitor the use and application of SPOs. We are aware that the police super-complaint submitted by the Suzy Lamplugh Trust on behalf of the National Stalking Consortium includes SPOs. We will take into consideration any findings and recommendations made by the investigating bodies when they report this year.

The noble Baroness, Lady Brinton, made some points about stalking protection orders and their enforcement. Some police forces, such as the Met, have been making excellent use of the new stalking protection orders we introduced in 2020. Others have applied for fewer than might have been expected. The VAWG strategy confirms the Home Office will work with the police to ensure all police forces make proper use of stalking protection orders. Among other actions, in October 2021, the then-Safeguarding Minister Rachel Maclean MP wrote to all chief constables whose forces applied for fewer orders than might have been expected to encourage them to always consider applying for them. In February 2023, the former Safeguarding Minister, Sarah Dines MP, did the same.

In answer to the point made by the noble Lord, Lord Russell, on MASIP, I am afraid I am unfamiliar with the programme and suggest a meeting to discuss further whether there is more the Government can learn from it.

In response to the noble Baroness, Lady Royall of Blaisdon, and my noble friend Lady Newlove, I am afraid I cannot comment on individual cases. However, I am happy to arrange a meeting to discuss them in private.

On the implementation of stalking protection orders, data from HM Courts & Tribunals Service shows that in their first 23 full months —February 2020 to December 2021—almost 1,000 interim and full SPOs were issued. The number issued rose by 31% between February and December 2020 and the equivalent period in 2021.

For these reasons, the Government feel that the aims of the amendments are already met through existing provisions, and I therefore urge the noble Baroness to withdraw the amendments.

Baroness Thornton >

(Lab)

Share

Why does the Minister think we tabled these amendments?

Lord Roborough >

(Con)

Share

I think I understand the point of the amendments, which is the belief that stalking and domestic abuse deserve to be treated the same way as terror and murder offences. I hope the explanation I have given shows that these offences, on a discretionary basis, can be treated with the same seriousness under MAPPA 2 and MAPPA 3. The Government have described an ongoing process of trying to improve the implementation of it.

Baroness Thornton
(Lab)

Share

I thank the Minister for the detail he has gone into. I am not making fun of him; I am genuinely wondering if he thinks it is all going in the right direction and fast enough. If so, we would not have needed to put the amendments down. We have tabled them because things are not moving fast enough.

Most of the examples my noble friend Lady Royall gave were not current, though some of them were. It is, therefore, perfectly all right to discuss them because they are a long time past and they show the failures of our systems to deal with and recognise stalking and the problems it poses. The reason we have tabled the amendments is because the systems we have at the moment are clearly not working and are very patchy. As my noble friend Lady Royall said, guidance does not always serve, and it does not serve in these circumstances.

I thank everyone who has spoken in the debate. It was very well informed. I think the Minister may have underestimated our determination on the matter. We may return to it at a later stage in the Bill. I beg leave to withdraw my amendment.

Amendment 148A withdrawn.

Amendment 148B not moved.

Amendment 148C

Moved by

Lord Ponsonby of Shulbrede

Share

148C: After Clause 47, insert the following new Clause—

"Report to Parliament on including MAPPS as a condition of release and licence for certain offences(1) The Secretary of State must lay a report before Parliament on the Government's progress in designing and creating new Multi-Agency Public Protection System [MAPPS] for prisoners subject to notification requirements and licence conditions under the Victims and Prisoners Act 2024.(2) The report under subsection (1) must be published within twelve months of the day on which this Act is passed.(3) The report must include a timetable for the planned implementation of MAPPS."

Lord Ponsonby of Shulbrede
(Lab)

Share

My Lords, I beg to move Amendment 148C. I want to speak more widely than the previous group and briefly recount my experience as a magistrate. It so happens that the last two stalking cases I dealt with were of women stalking men. I have also dealt with recent cases where MAPPA—as it was called—was relevant to the bail decisions which we were making. The reason I want to speak more widely than the previous group is because, in my experience, the MAPPA system is also used for tracking and being aware of people with mental health difficulties who are perceived as dangerous. These are not stalkers but people who may well be dangerous because of their mental condition.

In fact, the last case that I dealt with—which was probably a couple of years ago now—was of a young man with a gun obsession, but who had clear mental health problems. It was going to fall to MAPPA to make sure he was properly protected—which I suppose is the right way of describing it—because he was likely to be released into the community. In that case, I quizzed the relevant offices about MAPPA, as it then was, and what was likely to be put in place for that young man. It was absolutely clear that there were a number of agencies involved. The key was multiagency working. As a court, we needed confidence that people would indeed be able to work across the agencies to try and keep proper tabs on the young man, to make sure he did not go off the rails again—if I can put it like that.

How are the types of cases dealt with by MAPPS and MAPPA recorded? They are not all stalking-related and domestic abuse-related cases; they go wider than that. They include a lot of agencies: not just police and probation, but also housing, local authority and health agencies. The whole point of that system is essentially to provide support for people who are potential offenders, to try and

stop them from reoffending. How are the types of cases dealt with by MAPPA tracked? Is the Minister confident that the tracking of those releases means that the response can be properly tailored for the individuals whom they are dealing with? It is certainly my experience that very often, when things go wrong, it is because the agencies are not working together properly. This is a repeated theme of what I have seen when cases come before me in the magistrates' court.

6.45pm

Lord Russell of Liverpool >

(CB)

Share

My Lords, I would like to put my name to this amendment, because it is a continuation of the theme around stalking which we have repeatedly returned to in the Bill, as indeed we went on at length about in the Domestic Abuse Act.

In listening to the reply of the Minister to the last group of amendments, I was trying to imagine what a robust list would look like. I was somewhat puzzled as to how it would really have any effect at all. I was also pondering the term "discretionary management", given that if only 1.4% of stalking cases actually end up in a successful prosecution, it is quite easy for the advisers who are writing the Minister's brief to talk about percentage increases in performance. If one knows anything about mathematics, it is relatively easy to get rather spell-binding percentage increases in performance by starting from an exceedingly low base—a base of 1.4% of stalkers being successfully prosecuted, I am not a fan of percentages in a situation like this.

As the noble Lord, Lord Ponsonby, said, effective multiagency co-operation is clearly not working at the moment. This amendment gives the Government the opportunity to provide the single most important thing to make multiagency co-operation work: clear, outstanding, determined and consistent leadership. Leadership which transcends politics and different Ministers being responsible for the same area as the ministerial merry-go-round continues is incredibly important. The attempts by MAPPA to create an effective multiagency co-operation environment are so far not compelling. This amendment is an invitation for the Government to sit down and reflect on the lessons of what has not been and is not working as we would wish it, to create something more fit for purpose, and —in a non-political environment—to create a form of new MAPPS which is nothing to do with politics.

If the Great British electorate—of course, we are not allowed to participate—decide on a change of His Majesty's Government at some point in the next 12 months, I hope that the department can come up with a form of multiagency co-operation which an incoming Government, should they be of a different political persuasion, would be positive about and could run with and make effective, rather than starting the clock all over again and losing valuable time. During this time, goodness only knows how many more victims will fall to the pursuit of stalkers, many of whom have been operating and stalking for many years, and many of whom are known all too well to the victims, but whom various multiagency authorities seem to be wilfully blind to.

Baroness Brinton >

(LD)

Share

My Lords, I have also signed Amendment 148C and thank the noble Lord, Lord Ponsonby, for introducing it, and the noble Lord, Lord Russell, for his very eloquent contribution just now.

I too return to the Minister's remarks at the end of the previous group, because it will help with this amendment. Part of the problem is that those of us who raise these issues about multiagency protection have assumed the corporate knowledge of the House about the previous six days and of all the amendments we have debated—in particular, those relating to domestic abuse and stalking. I fear that is not the case. One of the reasons we need this report is to ensure that Ministers and officials absolutely see what is happening in the data and bring it to Parliament to be held to account for it.

When I gave an example of a live case, I used the term "restraining order". In his response to me, the Minister talked about a "stalking protection order". They are completely different tools. An SPO is given by the police as a sort of special caution. It identifies the crime and says to the offender—there may not even be an offender at that point—that they have to mend their ways. A restraining order is given by the courts—it can happen at various levels of the courts—and is much more serious.

Most stalkers who are on restraining orders now will have been through the earlier processes, including, I am afraid, a number of stalking protection orders. While they may be a useful tool for the one stalker who is obsessed with one person but can get over it, the group of people that we are talking about in the MAPPA arrangements are completely and utterly different. They are extremely

obsessed and manipulative people, who are physically dangerous in some cases, and certainly through coercive control. Not only are they a danger to the person for whom a restraining order may have been given but, in all the examples I gave in my speech on the previous group, they are known to be likely to offend with other people and to move around the country to get out of trouble and get away from the police force taking notice of them.

Given that we are talking about the most serious level of offences, whether it is domestic abuse or stalking, we need a consistent system across the country. Amendment 148C, through the report, would hold the Government—whatever Government, of whatever colour—to account, forcing them to produce data to show that they understand the difference. Until that happens, there will be Members of your Lordships' House who will return, Bill after Bill, with horror stories of murders, attacks and everything else, but nothing will have changed.

Lord Coaker ›

(Lab)

Share

My Lords, I apologise for not having contributed to debates on the Bill as it has gone through its various stages. I spoke to my Front-Bench colleagues and the others who have added their names to this amendment, and I want to bring my experience as the independent chair of the Nottingham Community Safety Partnership, as laid out in the register of members' interests, by speaking briefly to this amendment.

I welcome the Government's intention to move from MAPPA to MAPPS and all the various comments I have read that have been made throughout the passage of the Bill about the importance of change. However, the reality is that, whether it is called MAPPA, MAPPS or something else, without the sort of change that my noble friend Lord Ponsonby, the noble Baroness, Lady Brinton, and the noble Lord, Lord Russell, and others have mentioned, nothing will change.

I am sick of having domestic homicide reviews. They say exactly the same thing, time after time. It is not a lack of desire or care on the part of the people involved; the system simply does not work. We have a situation where people do not share data because they do not think that they are allowed to—even though everyone says, "Oh, that's ridiculous. Of course they're allowed to". The Minister of the Crown has to get hold of this; he needs to tell people to share the data in order to save lives—because they do not do so.

I am sorry to keep going on about this, but I am sick of reading about the same problem occurring, time after time: information is not being shared and people say that they did not know about this or that it was supposed to have happened. Again, it is not the dedication of the people that is in question—they all care and want to do good—but we need to know what is happening that does not allow it to take place.

The Minister has to get a grip of this. It does not matter whether it is called MAPPS or something else; without a change, nothing will improve. I know that that is the intention of the Government—of course their intention is not to make it worse—but what are we going to do about it?

I will tell the Committee about another problem. At times, the meetings are packed—absolutely rammed—with people representing, for hours, different parts of the system. What I say is that everybody is responsible but nobody is responsible. I repeat that: everybody is responsible because everybody cares, but nobody is responsible. The question is: who holds the ring? Who is the person accountable for ensuring that something is done and delivered, whether it is a review of a domestic homicide or prisoners coming out and being subject to the MARAC or MAPPS, as it will be called?

My final point is that the delivery of this from an office—I do not mean that disrespectfully—to a house or street is absolutely crucial, and yet nobody has done anything. I will give the Committee an instance. The Government have recruited new police officers—I am not making a political point—and so we have new front-line police officers, who are often very young and very willing, with the desire to do well. When they go to a prisoner out on licence or to a domestic incident, many of them go in blind, because they are young and inexperienced and have no idea what to do. They try to assess whether there is a threat to life, but, as we know, often with domestic homicides there is no immediate, obvious threat to life. That is the nature of domestic violence and, unfortunately, sometimes of domestic homicides; the offenders do not wear a sign saying, "I am going to kill someone". The police officer goes there, as a 999 response officer, and deals with the immediate emergency as he or she sees it. Realising that there is no immediate threat to life, as far as they are aware, the police officer leaves.

Sometimes, the information that that has happened is not passed on. Sometimes, the police officer is rung again—"Come back, there is a problem"—and they go back but there is nothing going on. It is not as though somebody is running around with a gun, ready to shoot. If that does not change, it will not make a shred of difference whether you call it "MAPPS", "super-MAPPS", "extra-

MAPPS", or "brilliant-MAPPS".

The Government want to make a difference, so they have to do something about the mechanism by which everybody is responsible but nobody is responsible, about what happens with the front-line delivery, and about the sharing of data and information. That is patchwork at best. My noble friend Lord Ponsonby, the noble Baroness, Lady Brinton, and the noble Lord, Lord Russell, say that the report has to address those problems. But the Minister does not need a report in 12 months; he could get on the phone or get a meeting now and ask why it is that the law allows you to share data but you are not.

My question to the Minister is this. When people say that they cannot share data in MARACs, or whatever else, are they right? Are they in a situation where they can do that? I think that they are wrong; I think that they can share that information. As a start to what the noble Lord, Lord Russell, the noble Baroness, Lady Brinton, and my noble friend Lord Ponsonby asked, why does the Minister not write to every single MARAC in the country and say, "Notwithstanding the Victims and Prisoners Bill that is going through Parliament, the existing law allows you to share information. Don't worry, you will not be prosecuted or get in trouble for doing that". They do not believe that—we may all say that that is ridiculous but that is the reality. What I want is for the Government to address on the ground the reality of what is happening. The Minister needs to get involved and do that. The Government want it to improve, as of course we all do, but that change is needed for an improvement to happen.

Baroness Hamwee >

(LD)

Share

My Lords, the noble Lord, Lord Coaker, might like to know that, in evidence that the Justice and Home Affairs Committee took recently on community sentences, we came across various NGOs that were stuck because they were frightened of sharing information. It held up the system; it completely stopped things working as they should and could have.

7.00pm

Baroness Newlove >

(Con)

Share

My Lords, this amendment is important. As someone who knows first-hand what it is like to gather information and then find out that the Home Office wants to gather information about red flags, I have to say it is amazing that all that information is shared for the Home Secretary to look at on a murder case.

I agree with the passionate assertion by the noble Lord, Lord Coaker, that data sharing is important. In a domestic homicide review, the families already know the information and have complained about it, but the Government have to wait for this review to come out with "lessons learned". That is further insulting to the victims' families and indeed to the victims, and it beggars belief that we have not moved on.

I want to tell my noble friend about data sharing. I attended a MARAC a few years ago as Victims' Commissioner—not every MARAC is fantastic, I have to say—and what concerned me was that when a police officer gave evidence that the prisoner had been released, his offender manager, who was at that same table, was concerned because the last thing she knew was that he was still meant to be in prison. She had to leave the room to double-check, because he should not have been released. Unfortunately, I did not manage to find out the result, but the police and offender management had to try to establish whether the prisoner had even been released. That shows how important it is for data to be shared for the protection of victims. People need to understand what can be shared so they can find out whether a prisoner is even in their cell.

Lord Roborough >

(Con)

Share

My Lords, I thank the noble Lord, Lord Ponsonby, for his amendment regarding the Multi Agency Public Protection System, MAPPS. I understand that the debate has not really been very much to do with MAPPS, but I will first address the amendment, which does address it. Amendment 148C would place a duty on the Secretary of State to publish a report on progress of the development of

MAPPS for prisoners subject to notification requirements and licence conditions under the Victims and Prisoners Act 2024, within 12 months of Royal Assent.

It may be helpful if I provide some explanation of MAPPS. This will answer some of those questions, but I have better answers at the end. MAPPS is a Home Office IT project, currently jointly funded with the Ministry of Justice, to enable the improved management of dangerous offenders, including violent and sex offenders, under Multi Agency Public Protection Arrangements, or MAPPA. It is intended to replace the current case management system, the ViSOR database, which has been the main IT tool used by the police, probation and prison services since 2005.

The current database, ViSOR, while stable, is now almost 20 years old. The Home Office and the Ministry of Justice began work on MAPPS in 2020 to enable criminal justice agencies to share information in real time and improve their risk assessments and the management of all MAPPA nominals. That can include domestic abuse perpetrators and stalkers, as referenced in Amendments 148A and 148B.

I am sure we all agree that it is essential that police and other MAPPA agencies have the tools they need to manage the risk posed by serious offenders, and MAPPS will do just that. The new functionality will include greater capacity; a more intuitive system with push notifications; and increased mobility. MAPPS, as a new and modern system, will be more responsive to agency needs, and adaptable to any new notification requirements.

As noble Lords would expect for a project so important to public safety, we are being diligent in our approach to MAPPS development. MAPPS is a custom product, being built to meet the bespoke needs of police, prison and probation officers as well as other MAPPA authorities. While third-party contractors are used, given other discussions on the Bill, I am sure that noble Lords will want to note that Fujitsu is not involved in MAPPS development and never has been.

We welcome the interest in the MAPPS programme and, while the work is ongoing, the Government will of course further update Parliament on its development and implementation. Given that MAPPS is already being designed specifically to meet the needs of those agencies involved in the management of all MAPPA offenders, in conjunction with those very agencies, I do not consider that the proposed report would say anything more than has already been mentioned, and it is therefore unnecessary.

I turn to the debate that we have had in Committee. MAPPA deals only with convicted offenders under four categories, but much of the debate has been about information sharing in a way that is not consistent with that use of it. In answer to numerous noble Lords —the noble Lords, Lord Coaker, Lord Ponsonby and Lord Russell of Liverpool, and the noble Baronesses, Lady Newlove and Lady Brinton—on data sharing, the PCSC Act put beyond doubt the authority of agencies to share relevant information for the purposes of assessing and managing an offender's risk, and to enable agencies and individuals who do not have a duty to co-operate to share information where they can contribute to the assessment and management of an offender's risk. These measures clarified existing arrangements and will ensure that agencies understand how any sharing of information for the purposes of MAPPA management interacts with the obligations contained in the data protection legislation.

In answer to the noble Baroness, Lady Brinton, we are bringing coercive individuals under the management of MAPPA but it is potentially under the lower categories 2 and 3, as I mentioned in the previous debate. There have been numerous questions. I am sure I have not answered them all and I will write to noble Lords.

Lord Coaker >

(Lab)

Share

The amendment in the names of the noble Lords, Lord Ponsonby and Lord Russell, and the noble Baroness, Lady Brinton, gives the Minister of the Crown the opportunity to jolt the system to tell people dealing with prisoners under licence or with potential domestic homicide incidents—within these multi-agency arrangements, whatever they are called or are going to be called—"You can share information in a way that you don't believe you currently can". If the Minister does that, it will save lives.

As I said, I am sick of reading domestic homicide reviews where people are killed and then, time after time, it turns out that it might have been avoided if information had been shared, but the people involved did not think they could do so. Why does the Minister not say to them in some way—in writing or from the Dispatch Box, using his powers as a Minister—that they can? That would make an immediate difference.

Lord Roborough ›

(Con)

Share

I thank the noble Lord for his comments, and for his comments earlier. Everyone in this Committee has the same interests at heart. We are all trying to achieve the same thing. I think I have read out a form of words that explains how data sharing is possible at the moment, but I take the point that there is the possibility of acting considerably more vigorously on this. I will take that back to the department. His words have not gone unnoticed.

Lord Harris of Haringey ›

(Lab)

Share

My Lords, that is a very helpful comment from the Minister—I apologise for not having intervened previously in the Bill—but, in other things that I have done over the last few years, there have been three separate areas of activity where the belief of professionals is that they cannot share the data despite the clear legislation, and despite the fact that a threat to life trumps most data protection legislation. It needs a bit more than the Minister saying, "I hear what has been said and we take it very seriously". There has to be action to make those legal rights and that legal possibility absolutely clear.

Lord Roborough ›

(Con)

Share

The noble Lord makes a good point. Hardly a piece of legislation goes through this House where there is not a data protection aspect. That creates confusion and it is up to the Government to bring clarity, particularly in this area. I thank him for that interjection.

I encourage the noble Lord, Lord Ponsonby, to withdraw the amendment.

Lord Ponsonby of Shulbrede ›

(Lab)

Share

My Lords, this has been a useful debate because it has been focused on the effectiveness of MAPPA, soon to be MAPPS.

As the Minister said, MAPPS deals only with convicted offenders. However, in the previous group he spoke at length about domestic abuse protection orders and stalking protection orders. Those are not criminal convictions so the people involved would not get on to the system in the first place.

From my own experience as a magistrate, from the experience of the noble Baroness, Lady Newlove, as someone who is currently involved with the criminal justice system, and from the experience of my noble friend Lord Coaker, who is on the Nottingham Community Safety Partnership, we are all looking at the same problem from different perspectives, but it is about one thing: data sharing and being able to monitor that data.

The Minister is addressing the Committee as a Minister of the Crown. He has authority and can follow this through. The same message has come from everyone who has spoken in this short debate: it is about data sharing. I look forward to the Minister using his authority to make sure that that message is rammed home to those people who sit on those committees. I beg leave to withdraw the amendment.

Amendment 148C withdrawn,

Amendment 148D

Moved by

Baroness Brinton ›

Share

148D: After Clause 47, insert the following new Clause—

"Duty of Crown Court to issue a restraining order for child sexual offences (1) A condition of the release on licence of child sexual offenders must include the issuance of a restraining order preventing any contact with the victim.(2) After section 244ZC of the Criminal Justice Act 2003 insert—"244ZD Release on license of certain child sexual offenders(1) A restraining order (as defined in section 359 of the Sentencing Act 2020) preventing any contact with the victim must be in place until further order at the point of release from custody under license conditions for those convicted of certain child sexual offences.(2) For the purposes of this section, "child sexual offences" means those offences defined as in the Sexual Offences Act 2003 sections 5 to 29, and sections 47 to 51.""Member's explanatory statement

This amendment requires a restraining order to be a condition of release for those convicted of child sexual offences.

Baroness Brinton ›

(LD)

Share

My Lords, we now turn to the perpetrators of child sexual abuse. I have tabled Amendment 148D, which imposes a duty on the Crown Court to issue a restraining order for child sexual offences for a perpetrator released on licence for certain child sexual offences. There is a strong reason why victims of child sexual abuse should be given this protection: they are among the most vulnerable, particularly when the abuse occurs within the family. Although there is respite for victims when the offender is in prison and while subject to licence conditions—provided that these have been properly set—the real problem is that robust licence conditions are often not in place; worse, even where they are, the victim is left unprepared once they expire.

Sexual harm prevention orders do not automatically include protection for the original victims of the crime; the onus is on the original victims to apply for a restraining order against the offender after they have been released—that is extraordinary. This not only creates enormous stress and fear but costs the Government more money through new hearings that must take place, not to mention the additional CPS and court resources that are needed. A restraining order placed at the time of release will save time and money, while affording the victim lifetime safety. It also sends strong messages to the offender that they will face criminal charges and up to five years' prison time if the restraining order is breached.

Sexual abuse of any kind is dreadful, but child sexual abuse is particularly heinous. As the Independent Inquiry into Child Sexual Abuse evidenced, the victims' lives are affected for decades. It destroys trust and lives; the fear of their abuser returning to their lives is very real.

One such case is GRO-C whose father was sentenced to 14 years in prison for sexually abusing her—his daughter—and a foster child. On release under licence, conditions were put in place to prevent him from entering certain areas where the children, now adults, lived and frequented—these conditions were necessary for their safety. However, when his sentence was completed, the offender was no longer subject to any licence conditions, meaning he is legally able to contact, in person or digitally, the children—who are now adults—that he abused for their entire childhoods. They live in daily fear for their lives and live in hiding, subjected to ongoing trauma because the power has been given back to the offender.

GRO-C said:

"My dad horrifically abused me for the first 18 years of my life. I am now 33 and I have spent more of my life under his control than not. He has always been a violent man and pled guilty to many cases of child sexual abuse to myself and another.

His sentence came to an end on 21 November 2023. I am appalled that he has been given the right to contact me in person or otherwise. I live in fear that he'll be waiting for me in the shadows of my home. There have been times when my home has been broken into and things have been moved around.

Right now, as a result of a prime-time documentary I presented which was aired on Channel 4, more children have come forward to say he sexually abused them. This can trigger a violent response with me as a target.

I am suggesting we impose a Lifetime Restraining Order at the time of release on license to prevent abusers of Child Sexual Abuse from ever getting in contact with their victims directly or indirectly. My dad tried to get in contact via a family member and it's absolutely terrifying. I should not have to carry the burden of his mistakes for my whole life.

Nor should I have to go to trial/court to request a restraining order. The option to have a phone that directly calls the police because I'm in danger is enough. The restraining order for life sends a strong message of consequences to the offender that they will face criminal charges and up to an additional 5 years in prison.

I go to sleep at night worried about the safety of my child and myself – and I'm strong. For those victims whose offenders come out after just a couple of years and receive less chance of rehabilitation, it's paramount we give the victims as much protection as possible.

True freedom for victims of child sexual abuse is in the hands of our Ministry of Justice and can be given to victims with a lifetime RO".

7.15pm

Her experience and those of many others speak to why we need to ensure that victims of child sexual abuse are given the confidence that their perpetrator will not be able to contact them after their release. I beg to move.

Baroness Thornton >
(Lab)

Share

My Lords, I do not need to add much to the words of the noble Baroness, Lady Brinton, because she has explained exactly why this is an important matter. I was slightly astonished when I read the amendment that this was the case and that this was something that we would need to remedy, so I look forward to the Minister's response.

Earl Howe >
(Con)

Share

My Lords, I too am grateful to the noble Baroness, Lady Brinton, for this amendment, which, as she explained, would require the Crown Court to automatically impose a restraining order on anyone convicted of a child sex offence; that would apply regardless of the type or length of sentence passed. There is no need for me to underline the horror of child sex offences and the lifelong harm that is inflicted on the victims. I therefore have a great deal of sympathy with the intent behind the amendment to do even more to try to minimise the impact of that harm, as well as protect the community from any further offending.

Restraining orders are a discretionary power available to judges to impose in cases where there is a need to protect people from harassment or conduct that causes fear of violence. The current regime allows for such orders to be imposed where there is sufficient evidence on conviction, post conviction or post acquittal. At present, applications for restraining orders are considered by the Crown Prosecution Service on a case-by-case basis, recognising that there is a need to keep a victim safe and take their views into account. Actions prohibited by the restraining order, such as going to certain locations or contacting the victim, may be a breach of the order which is punishable by imprisonment for up to five years. Variation or discharge of the restraining order must be undertaken by the court.

When dealing with child sex offences, the court has a range of sentencing options available that may include life sentences. The vast majority of offenders who are released are subject to licence conditions that could include conditions to protect the victim, such as prohibiting contact. Breaching the terms of any licence condition can result in an offender being recalled to prison.

Offenders are also subject to notification requirements, commonly known as the sex offender register, where individuals convicted or cautioned for a sexual offence must provide certain details to police, including address, national insurance number and bank account details. Furthermore, they will also be managed under Multi Agency Public Protection Arrangements, or MAPPA, for the duration of those requirements that, in many cases, will be for life.

Other measures to protect victims are also available. The sexual harm prevention order, or SHPO, can be made in relation to a person who has been convicted of a broad range of sexual offences, committed either in the UK or overseas. No application is necessary at the point of sentence, but courts may consider it in appropriate cases. Otherwise, applications can be made by the police, or other agencies, in preparation for the offender's release on licence.

The prohibitions imposed by the order can be wide-ranging, such as limiting forms of employment that may involve contact with children or restrictions on internet access. The orders may be for a fixed period not exceeding five years but are renewable. More than 5,000 SHPOs were imposed in the year 2022-23, which shows that the courts are using the tools and powers available.

While I support the well-meaning intention of the amendment, I do not believe it is necessary, because there is a wide-ranging and effective set of measures to monitor and control offenders. I also suggest that the point at which these additional measures would be needed are when someone's licence comes to an end; until then, conditions such as non-contact and exclusion can be in place on the licence. So it would be better to take decisions on the controls necessary at the conclusion of the licensing period, rather than attempt to predict them at the point of sentencing.

Requiring the Crown Court to automatically issue a restraining order as a condition of release in every case caught by this amendment would constrain the court's discretion not to issue an order where it was not needed or desired. From a practical perspective, a mandatory restraining order imposed on an offender at the point of sentence, which could be many years before the end of the sentence, would be a duplication of some of the other controls I have already set out and it could create practical difficulties down the line, especially where the sentence is very long.

We also must remember the voice of the victim, which plays an important part in decision-making. Where an offender has received a custodial sentence of 12 months for violent or sexual offences, which of course include sexual offences against children, victims will be automatically referred to the victim contact scheme. Where the victim is a child, a parent or guardian may join the scheme on their behalf. If they choose to join the scheme, a victim liaison officer will inform them when the offender is going to be released and help them to request licence conditions that will apply upon the offender's release, such as prohibitions on contacting the victim or entering an exclusion zone.

In conclusion, I hope I have adequately explained the wide-ranging provisions already available to safeguard victims, which we should allow the courts to impose as they see fit, according to the circumstances of a given case. I hope that, on reflection, the noble Baroness agrees and feels able to withdraw the amendment. In saying that, I make it clear, as I often do, that I am happy to talk to her after Committee to explore these matters further.

Baroness Brinton ›

(LD)

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I am very grateful to the Minister and I thank the noble Baroness, Lady Thornton. I am very grateful for his explanation of the system, but my difficulty with his response is that it does not make sure that the victim does not have to be proactive to go back to the court and make a statement, if they are very clear.

I hear what the Minister says about a sentence of more than 12 months, and I may return on Report with a slightly different amendment. This is a particular problem for victims of child sexual abuse of those who are discovered to have abused others and who present other issues. It is not just a one-off case that we are trying to resolve. In the meantime, I withdraw the amendment.

Amendment 148D withdrawn.

Amendment 148E

Moved by

Baroness Fox of Buckley ›

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148E: After Clause 47, insert the following new Clause—

"Change in gender recorded in relevant police register(1) A condition of the release on licence of perpetrators of criminal conduct of a sexual nature is that criminal justice bodies must take all reasonable steps to identify and record any change of legal gender by such perpetrators at the point at which they are released on licence.(2) Criminal justice bodies must ensure the sexual offences register and police database record accurate name and birth sex information for perpetrators of criminal conduct of a sexual nature at the point at which the perpetrator is released on licence.

Baroness Fox of Buckley ›

(Non-Afl)

Share

My Lords, I dedicate this speech to Lord Cormack because, the last time I spoke to him, we discussed this very issue. I make no claim that he would agree with me; it is just that, as was his wont, he was very supportive of me tabling this amendment. I acknowledge that he did not agree with me on many things but he was still a great Peer.

Amendment 148E looks at identity changes and recording on registers. On the front page of Scottish newspapers over the weekend was the story of GRO-C the head of the Robert Burns World Federation, who has been unmasked as a convicted sex offender who abused two boys in the past. He exploited a legal loophole that meant that GRO-C, which was his name when he committed earlier offences, could change his name to get the job. Chillingly, his role at the federation allowed him access to children.

Thankfully, instances of sexual offenders changing their name to escape their past are being tackled, not least by the efforts of campaigners for Della's law, named after six year-old GRO-C, who was raped by a man who had legally changed his name five times. I am glad that the Government have endorsed amendments to the Criminal Justice Bill that will block offenders from, for example, using deed poll to obtain a new identity.

I particularly congratulate the honourable Labour MP Ruth Jones, whose Private Member's Bill, the Community and Suspended Sentences (Notification of Details) Bill, passed its Second Reading in the other place only on Friday, 23 February. I congratulate the Government on signalling their support for that Bill. It is designed to tackle the hundreds of sex offenders across the UK who slip off the radar because they lawfully change their names and then apply for fresh identity documents, allowing them to escape the authorities and their past and, potentially, to secure jobs working with children.

Now, you might say that, because of the Private Member's Bill that I just mentioned and the Government's support for it, which deal with my worries, there is really no need for my amendment. However, we are told that the Bill will mean that all offenders will have to notify their probation officers and others about any name changes, online aliases or changes in contact details when, actually, perhaps not all offenders are covered by this. My amendment probes another loophole that seems to have gone beneath the radar. I hope that the Minister will address this—I do not necessarily mean this evening, but before we get to Report.

The new arrangements that I have discussed are about not allowing sex offenders simply to change their identity to escape their past crimes. Offenders will not simply be able to change their identity on official documents. This is true for everyone, except for when a little-known exemption applies. It relates to a sensitive applications clause that applies to those who have changed their identity not simply via deed poll but via transitioning gender. This sensitivity clause can be utilised by convicted male sex offenders who change gender after committing a crime, once they are incarcerated.

I discovered this loophole from a bizarre tale that ended up being rather personal to me. GRO-C is now a delightful 25 year-old mum who is training to be a paramedic, but she had a traumatic, hellish childhood. From the age of eight, she was sexually abused and raped by her own father, GRO-C. This horrendous ordeal went on for eight years until, eventually, in 2016, GRO-C was arrested and sent to prison for 15 years. Having served only half of his sentence, GRO-C was released on licence less than a year ago.

Whatever the rights and wrongs of this seemingly early release—I think it was unseemly that GRO-C was released so early—one would think, after his release had been agreed, that at least GRO-C would be in clear sight of the relevant criminal justice agencies for protection and safeguarding. But there is a catch. Two years prior to GRO-C's release, he declared himself a woman and changed his name to—wait for it—GRO-C. For those of you who know me only as the noble Baroness, Lady Fox, my name is GRO-C, so I noticed when I heard this story.

7.30pm

Think about what that means. A "GRO-C" might well be on the sex offenders register, but GRO-C does not exist anymore—GRO-C is GRO-C GRO-C was not let out of prison early on licence—GRO-C was. What is more, the proposed new changes on restricting identity and name change via deed poll, which I have already discussed, will not apply to GRO-C because when someone changes gender as part of changing their identity—it makes no difference whether that is achieved by self-declaration or in accordance with the provisions of the Gender Recognition Act—they are afforded an extraordinary, enhanced right to privacy, wholly unlike those granted to any other individual.

These special protections, given to them by the state, represent a concrete safeguarding risk. It means that a loophole has been created, whereby an individual is able to conceal their past identity for the purposes of, for example, the Disclosure and Barring Service checking processes. An individual such as GRO-C can request, based on this special category of privacy, that his past identity or name is not displayed. I am confusing myself, because it is not GRO-C who can request that but GRO-C GRO-C can say, "I don't want the name GRO-C to be displayed on any DBS certificate issued to me—my name is GRO-C".

A prospective employer is not entitled to know whether a candidate has used this sensitivity clause to cover up who they are. I remind noble Lords that DBS checks are supposed to play an important role in safeguarding, by helping organisations make safer recruitment decisions. They are designed to deter unsuitable people from applying to work with vulnerable groups, and to assist organisations in identifying and rejecting such people. But organisations are able to rely on the DBS checking process only to the extent that checking systems are robust, and that the information displayed on DBS certificates is both accurate and complete. Thanks to the work of people such as Kate Coleman and the campaign group Keep Prisons Single Sex, or KPSS, we now know that these sensitive application loopholes mean that organisations have no way of knowing whether information displayed on DBS certificates presented to them is an accurate or complete record concerning any individual.

Think about what that means for GRO-C and her paedophile father. Since his release, GRO-C —has gone to live in the same town as his daughter. That means that he could apply for jobs locally working with children, even with GRO-C 's own daughter, and his past would be hidden. It is worth noting that, due to the special privacy rights afforded to GRO-C the victim, GRO-C GRO-C had no right to know about GRO-C 's gender transition and found out only when GRO-C gave permission for the information to be passed on via GRO-C 's victim liaison officer—part of what writer and activist Julie Bindel described as an example of "coercive and controlling tactics".

The key issue is that there is no legal requirement for a victim to be warned. GRO-C would not have had any idea that GRO-C had been erased and that the new person who had entered the town— GRO-C —was in fact her father. Therefore, there would have been no alert given to the family children if they were being shown attention by a local employee called GRO-C I stress the familial connections point because, grossly, GRO-C 's argument at the Parole Board as to why he did not represent a threat to wider society was that his incestuous abuse had been kept within the family. Think about that as a sick retort.

In rounding off my remarks, I am keen that your Lordships note that this amendment is driven by GRO-C 's experience, rather than my own views on gender identity, which I know not all noble Lords will agree with me on. GRO-C is not involved in gender politics. She got dragged into this by her paedophile rapist, noting that:

"My father wasn't dysphoric about his male genitals when he was abusing me".

In a way, I have been dragged into this issue by GRO-C . When the story was first made public in the other place, and then in the press, I was mortified and wished it would go away. It was so embarrassing to have my name being sullied by such an association with a perpetrator. But when I thought about it, and heard that GRO-C had broken her own anonymity, it gave me a jolt. She appealed to those of us with influence to help her expose the loophole that could allow dangerous sexual predators to evade detection and potentially target other child victims, perhaps in female-only settings. GRO-C knows that it is too late in her case, but it does not have to be for others. I hope, therefore, that we can perhaps create a 'GRO-C 's law".

Baroness Brinton >
(LD)

Share

My Lords, the noble Baroness, Lady Fox, started her speech by talking about sex offenders changing their names frequently, and there is no doubt that this happens. I will come on to explain why I think that there is help in that. However, her amendment seems to be intending to strengthen identification of individuals on licence who have a different gender assignment from that given at birth. It implies a perceived need to know that person's birth gender, legal gender and legal identity, and that they are relevant to the prevention of a sex crime. This is, as I think the noble Baroness is aware, highly contentious and a sensitive topic, with implications for the equality, dignity and fair treatment of transgender people.

His Majesty's Prison Service estimates that there are approximately 2.9 transgender prisoners per 1,000 in custody. There were 281 prisoners living or presenting in a gender identity different from their birth sex as of 31 March last year. At the same time, the number of prisoners with a gender recognition certificate was only 13. HMPPS already has robust arrangements in place for identifying individuals who have undergone gender change at the point of entry to custody. That is because there are already rules inside prisons for making sure that there are no risks to the prison population—or indeed to those who have changed their gender, who sometimes are attacked as well.

Nevertheless, even if an individual somehow managed to slip through the net, establishing it would require staff checking the legal gender of every person convicted of a sex event who was released from prison—effectively trying to prove that they do not have a GRC by asking the gender recognition panel. Proposed new subsection 2 of the noble Baroness's amendment is about the database recording absolutely everybody who has committed a sexual offence in their gender at birth. Data published on 31 December last year shows there were 14,152 people serving a sentence in prison for a sex offence. I wonder whether the Minister cares to hazard a

guess at how much time would be spent if HMPPS and the GRC trawled through that lot. HMPPS is required to accurately record a person's legal gender upon entry to custody, and the policy states that, where legal gender has not been confirmed, efforts to establish legal gender must be recorded separately when different—so both are still recorded.

Furthermore, I remember that during the course of the then Police, Crime, Sentencing and Courts Bill in 2021, the noble Baroness, Lady Williams, on behalf of the Government, said:

"There are no other instances across government where there is a mandatory requirement to record both a person's sex as registered at birth as well as their acquired gender, if that is applicable. The Office for Statistics Regulation is clear that it is for each department to decide when and how it collects data, including data on both sex and gender.

We have already stated that we do not plan to require biological sex to be recorded across the criminal justice system in our response to a recent petition calling for the biological sex of violent and sexual offenders to be so recorded".—[*Official Report*, 22/11/21; col. 724.]

Given that, and given the protections that the Prison Service must follow through with every transgender prisoner, I wonder if there is actually a real reason for the need for this amendment. I appreciate the tale that the noble Baroness, Lady Fox, gave us from the individual, but I am not sure that what she requires in this amendment would actually help the victim in this case.

Baroness Thornton ›
(Lab)

Share

My Lords, I echo the worry of the noble Baroness, Lady Brinton, about this, partly exactly because it may not solve the victim's problem that the noble Baroness, Lady Fox, outlined in proposing this amendment. We have also talked a lot about the unevenness of the criminal justice system's data collection and everything else; I wonder how on earth it would do this, to solve what is probably a very small problem—but a challenge, absolutely—and whether there may be another way of resolving it. I look forward to the Minister's remarks.

Earl Howe ›
(Con)

Share

My Lords, I am grateful to the noble Baroness, Lady Fox, for explaining the background to her amendment. It would require by law that the criminal justice agencies—the police, prisons and probation—identify and record any change of gender identity by a sex offender as a condition of their release on licence. It would also require the police to record the offender's name and birth sex as a condition of their release on licence.

It may help if I outline the measures we already have in place, which I think address the spirit of this amendment. Part 2 of the Sexual Offences Act 2003 requires sex offenders who have been convicted of an offence in Schedule 3 to that Act to notify the police of their personal details annually and whenever they change. Those details include information such as names, including aliases, and addresses. They also include details of activity such as foreign travel and residence in a household with children.

Sex offenders subject to the notification requirements in Part 2 of the 2003 Act are managed under the Multi Agency Public Protection Arrangements. MAPPA is a statutory arrangement, through which the responsible authority—the police, prisons and probation—work together and with other agencies to discharge a statutory duty to co-operate, to assess and manage the risk posed by registered sex offenders and others living in the community.

In February 2023, the Ministry of Justice and His Majesty's Prison and Probation Service created a presumption that all transgender female prisoners, whether they have a gender recognition certificate or not, would not be held in the general women's prison estate. The Prison Service is able to verify, with the gender recognition panel, whether an offender has a gender recognition certificate. Any difference between an offender's birth sex and assumed gender will therefore be recorded and made known to the probation and police services through their co-operation under MAPPA.

The MAPPA responsible authorities use the VISOR database to share information about registered sex offenders. VISOR enables the recording of sex, gender identity and gender presentation. An offender's legal sex will be changed on VISOR only if they have provided a GRC to the police, probation or prison service. However, MAPPA agencies are still able to have regard to an offender's change of gender where it is necessary to manage their risk, or prevent or detect crime.

7.45pm

While Section 22 of the Gender Recognition Act 2004 makes it an offence to disclose information about an individual's application for a gender recognition certificate, there is an exemption for this where disclosure is necessary to prevent or detect crime. Accordingly, should the police or any of the other responsible authorities require information about an offender's application for a gender recognition certificate, this can be obtained by working with relevant "duty to co-operate" bodies, such as medical professionals.

I hope that the noble Baroness, Lady Fox, will find this information helpful. While I am of course willing to write to her if I have not picked up any subtleties of the points she raised, I hope she will feel comfortable at this stage in withdrawing her amendment.

Baroness Fox of Buckley >
(Non-Afl)

Share

My Lords, I thank noble Lords for the responses I have received. I will take what the Minister has said, and look at it myself, and maybe we can both clarify whether we have missed anything. I do not want to delay us too long now. I will say to the noble Baronesses, Lady Thornton and Lady Brinton, that if the wording of this amendment will not correctly pick up the problem I have identified, I would be happy to take their advice on how to improve it.

I think that a genuine loophole does exist, however. I was a bit concerned when the response seemed to be to suggest that there would be a lot of work involved in solving a small problem. I have listened to such passionate speeches from the noble Baronesses, Lady Brinton and Lady Thornton, about threats to women and girls, from stalking in particular, and about the importance of child protection and so on; I would have thought that they would have grabbed any opportunity to close down a loophole on safeguarding. I hope they will work with me.

The loophole in general of sex offenders changing identity has been identified by the Labour MP and backed by the Government. I have simply drawn attention to a loophole within that loophole that was being closed. I have used particularly the examples of DBS checks. They are very important; I have always thought that the Government went slightly over the top with DBS checks for people volunteering with the Brownies or what have you in the past but, if you are going to have them, you need to be able to rely on them. When the Minister gave his assurances, I did not feel they would capture the DBS point. That is what I have tried to do in the amendment. It will be improved; I will be back on Report. In the meantime, I withdraw the amendment—and I am glad that people appreciated the spirit of it.

Amendment 148E withdrawn.

House resumed.