Evan Stark, Ph.D.

Excerpt from UK Serious Crime Bill

New Clause 9

Controlling or coercive behaviour in an intimate or family relationship

‘(1) A person (A) commits an offence if—

(a) A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive,

(b) at the time of the behaviour, A and B are personally connected,

(c) the behaviour has a serious effect on B, and

(d) A knows or ought to know that the behaviour will have a serious effect on B.

(2) A and B are “personally connected” if—

(a) A is in an intimate personal relationship with B, or

(b) A and B live together and—

(i) they are members of the same family, or

(ii) they have previously been in an intimate personal relationship with each other.

(3) But A does not commit an offence under this section if at the time of the behaviour in question—

(a) A has responsibility for B, for the purposes of Part 1 of the Children and Young Persons Act 1933 (see section 17 of that Act), and

(b) B is under 16.

(4) A’s behaviour has a “serious effect” on B if—

(a) it causes B to fear, on at least two occasions, that violence will be used against B, or

(b) it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities.

(5) For the purposes of subsection (1)(d) A “ought to know” that which a reasonable person in possession of the same information would know.

(6) For the purposes of subsection (2)(b)(i) A and B are members of the same family if—

(a) they are, or have been, married to each other;

(b) they are, or have been, civil partners of each other;

(c) they are relatives;

(d) they have agreed to marry one another (whether or not the agreement has been terminated);

(e) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);

(f) they are both parents of the same child;

(g) they have, or have had, parental responsibility for the same child.

(7) In subsection (6)—

"civil partnership agreement" has the meaning given by section 73 of the Civil Partnership Act 2004;

"child" means a person under the age of 18 years;

"parental responsibility" has the same meaning as in the Children Act 1989;

"relative" has the meaning given by section 63(1) of the Family Law Act 1996.

(8) In proceedings for an offence under this section it is a defence for A to show that—

(a) in engaging in the behaviour in question, A believed that he or she was acting in B's best interests, and

(b) the behaviour was in all the circumstances reasonable.

(9) A is to be taken to have shown the facts mentioned in subsection (8) if—

(a) sufficient evidence of the facts is adduced to raise an issue with respect to them, and

(b) the contrary is not proved beyond reasonable doubt.

Column number: 169

(10) The defence in subsection (8) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.

(11) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;

(b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both."—*(Mr Buckland.)*

This New Clause provides for a new offence criminalising controlling or coercive behaviour in an intimate or family relationship. The new offence would be triable either way with a maximum penalty (on conviction on indictment) of five years' imprisonment.

Brought up, and read the First time.

The Solicitor-General: I beg to move, That the clause be read a Second time.

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

Government new clause 10—*Guidance* .

New clause 3—*Offences of coercive control and domestic violence* —

'(1) Any person who commits an act of or engages in a course of conduct that amounts to coercive control in a domestic setting shall be guilty of an offence.

(2) A person guilty of an offence under this section is liable—

(a) on summary conviction to a community order or imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale; or

(b) on conviction on indictment to a community order or term of imprisonment not exceeding 14 years or a fine not exceeding the statutory maximum.

(3) The Secretary of State shall by regulations—

(a) set out matters that the court must take into account when determining whether to refer the matter to the Crown Court;

(b) require a court, local authority or other public body not to disclose the current address or postcode of the victim of an alleged offence under subsection (1) if, in the court's view, it would place the victim at risk of harm by the alleged perpetrator or any other person;

(c) provide the court with the power to require those convicted of an offence under subsection (1) to successfully complete a domestic violence programme and/or another appropriate counselling programme as ordered by the court; and

(d) provide the court with the power to issue domestic violence orders under section 28 of the Crime and Security Act 2010 to those convicted of an offence under subsection (1).

(4) Regulations under this section shall be made by statutory instrument and may not be made unless a copy has been laid in draft before, and approved by, both Houses of Parliament."

New clause 4—*Prosecution of offences of coercive control —*

'(1) The prosecution of any person under the terms of New Clause [Offences of coercive control and domestic violence] shall not be the subject of statutory time limits."

New clause 5—*Definition of domestic violence —*

'(1) For the purposes of this Act, "Domestic Violence" means—

(a) controlling, coercive or threatening behaviour;

(b) physical violence; or

Column number: 170

(c) abuse, including but not limited to, psychological, physical, sexual, financial or emotional abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.

(2) For the purposes of the definition in subsection (1)—

"coercive controlling behaviour" shall mean a course of conduct, knowingly undertaken, making a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

"coercive or threatening behaviour" means a course of conduct that knowingly causes the victim or their child or children to—

(a) fear that physical violence will be used against them;

(b) experience serious alarm or distress which has a substantial adverse effect on the victim's day-to-day activities.

(3) For the purposes of subsection (2) a person shall be deemed to have undertaken a course of conduct knowingly if a reasonable person in possession of the same information would conclude that the individual ought to have known that their course of conduct would have the effect in subsection 2(a) or (b)."

New clause 6—*Domestic violence: policies, standards and training —*

‘(1) The Secretary of State shall require every police service in England, Wales and Northern Ireland to develop, adopt, publish and implement written policies and standards for officers’ responses to coercive control and domestic violence incidents within one year of this Act coming into force.

(2) The purpose of the policies required under subsection (1) shall be to ensure that police forces prioritise cases of domestic violence involving coercive control as serious criminal offences.

(3) The purpose of the standards required under subsection (2) shall be to ensure—

(a) a minimum level of information and support for victims of alleged domestic violence; and

(b) all police officers involved in domestic violence cases shall have had appropriate training in domestic violence behaviours.

(4) In developing these policies and standards each police service shall consult with local domestic violence experts and agencies.”

New clause 27—*Report on effectiveness of national register of domestic abusers and serial stalkers* —

‘(1) The Secretary of State must, within six months of commencement of this Act, commission a report on the potential effectiveness of a national register of individuals convicted of more than one domestic abuse or stalking offence.

(2) The report should include a cost-benefit analysis of such a register.”

Government amendments 3, 6 and 28.

The Solicitor-General: Thank you, Ms Clark, for listing everything comprehensively to allow us to have a debate that will encompass Second Reading and stand part as well as contributions on amendments tabled by other hon. Members.

It is my particular pleasure—I think that is the right word, or perhaps “honour”— to move the amendment that stands in the name of my right hon. Friend the Home Secretary. Domestic abuse is unquestionably a serious and intolerable crime. I have had to deal with it as a practitioner and I have seen the consequences of

the litany of abuse inflicted not only on adults but on the children and young people in the families concerned. Lives are destroyed and tragically cut short.

In 2012-13, more than 1.9 million people in this country dealt with the terrifying reality of being victims of violence and abuse at the hands of those closest to them, and 76 women were murdered by a current or former partner, yet we know that that appalling crime is still under-reported. In fact, some victims do not think that what is happening to them is wrong. More

shockingly still, some of those controlled and dominated by someone they trust may even blame themselves for what is happening. As a result, such abuse is hidden behind the closed doors of far too many families. We must bring domestic abuse out into the open if we are to end it. The first step is to call it what it is: a crime of the worst kind.

Andy McDonald (Middlesbrough) (Lab): Does the Minister think that the situation is assisted or hindered by the barriers placed in the way of women in employment who wish to secure legal aid funding to take action? They also face funding barriers in getting places in women's refuges.

The Solicitor-General: The hon. Gentleman raises important points about the extent of legal aid. We cannot rehearse the arguments about the Legal Aid, Sentencing and Punishment of Offenders Act 2012, but he will know that, where there is evidence of domestic violence and the criteria are met in respect of the legal aid fund, there will be funding for civil and family proceedings relating to domestic violence in family situations. On refuges, I must say that I am proud that the Government have seen more refuges and rape crisis centres opened, because they are a vital resource for many women who have nowhere else to turn. The Government's record is good when it comes to enhancing and spreading awareness of the role of those important services.

I say to the hon. Gentleman that we are dealing primarily with the criminal sphere. He will know that legal aid and public funding are available not only for the prosecution of offences but for criminal defence and the conduct of criminal cases in the magistrates or Crown courts. That is what we are discussing today.

I will deal with criminal prosecution, because the Government have made significant strides to improve the criminal justice response to domestic violence and abuse. The number of referrals from the police for prosecution is higher than ever before, and the number of cases reaching court has risen. In 2012-13, there were just over 70,700 prosecutions for domestic abuse nationally, and current projections expect that figure to increase to nearly 90,000 by the end of this financial year. The conviction rate for domestic violence and abuse is also at its highest-ever level, yet a stark comparison of crime survey and Crown Prosecution Service figures suggests that just one in 20 of those abused by family members or partners are able to access justice.

That is just not good enough. It suggests that too many cruel and manipulative perpetrators are getting away with their actions, so last summer the Government ran a consultation asking whether the law needs to be strengthened to provide better protection to victims of domestic abuse. Some 85% of respondents told us that

it does indeed need to be strengthened, and 55% highlighted the need for a new offence. I am sure that the Committee would agree that a person who causes someone to live in constant fear through a campaign of intimidation should face justice for their actions. If such a person is unknown to their victim or is known but unrelated they would be called a stalker. What if that person is related to the victim? What if they share a home or a life together? The laws against stalking are not readily applicable in such circumstances. How do we ensure that they face justice? The reality at the moment is that they might not. We have to change that. We must create

a new offence that makes it crystal clear that a pattern of coercion is as serious within a relationship as it is outside one. In many ways it is worse, because it plays on the trust and affection of the victim. That is why we need a new offence.

2.45 pm

New clause 9 would close a gap in the law that should not exist. It would ensure that those abused by the people closest to them are protected by the law. The new offence seeks to address repeated or continuous behaviour in relationships where incidents viewed in isolation might appear unexceptional but have a significant cumulative impact on the victim's everyday life, causing them fear, alarm or distress.

It is not our ambition to intrude into ordinary relationships. Every relationship will have its own power dynamics, and this proposal is not about outlawing arguments or saying that couples cannot disagree. We recognise the importance of ensuring that the new offence does not impact on non-abusive relationships that might be more volatile than others. As such, the repeated or continuous nature of the behaviour and the ability of a reasonable person, whether part of or external to the relationship, to appreciate that their behaviour will have a serious effect on the victim, are key elements of the new offence.

As an additional safeguard against the inappropriate use of the power, a defence is set out within the new offence. That will operate where someone was genuinely acting in the best interests of another, for example, where a spouse is a carer and needs to restrict the movement of a partner, perhaps with mental health issues, for their own safety.

However, we also recognise the importance of ensuring that that defence cannot be used as a "get out of jail free" card by manipulative perpetrators. The defence will not be available where the victim has been caused to fear violence. Where the defence is available, a defendant will need to show that a reasonable person would agree that their behaviour was reasonable in all the circumstances. That is not an easy test to meet, I submit, if someone has been responsible for perpetrating a campaign of control against another person.

We have ensured that the new offence does not overlap the existing criminal law. For that reason, we have decided that child abuse should not fall within the remit of the new offence, because it is covered by the existing law on child cruelty, which we have already debated in the context of clause 65. Similarly, the new offence does not apply to extended family members who have never lived with the victim, because stalking legislation is applicable in those circumstances.

Column number: 173

Norman Baker (Lewes) (LD): Will my hon. and learned Friend clear up in my mind what a child is in the context of the new clause? Subsection (3)(b) refers to an exemption if the person is under 16, yet subsection (7) refers to a child being a person under the age of 18. Will he please explain the difference?

The Solicitor-General: I will do my best. Subsection (3)(b) relates to the exclusion that I have just mentioned in relation to the commission of an offence against B. The later definition of "child" deals with how we define the members of the same family. Those are two different purposes. The first purpose relates to the nature of the victim and the second to the test of whether parties are members of the same family. That perhaps eloquently illustrates the inconsistencies that we debated last week. Because of the different capacities, it is difficult for the law to have a rational coherence in every circumstance. Again, I do not apologise for that. The legislation is carefully drafted to make that point powerfully.

Sarah Champion (Rotherham) (Lab): This measure is very much needed and I welcome the Minister's bringing it forward. In a number of the child sexual exploitation cases I have come across, although the grooming process started before the child was 16, the actual sexual exploitation and trafficking of that person tended to go on from the age of 16 until the early 20s, and the person believed that they were in an intimate relationship with the abuser. Does the Minister think that this new legislation would be another tool that the police could use to stop child exploitation?

The Solicitor-General: Certainly, in the context of a family relationship, there might be a situation where somebody has reached the age of 16 and this would apply. There are of course other sexual offences that could cover that conduct. The police, in looking at a particularly coercive relationship, might then uncover revelations about exploitation. That is why these reforms are so useful for the police. Through one doorway another door is often opened to even more serious or different types of offending, such as child sexual exploitation, on which the hon. Lady has campaigned so eloquently.

We have carefully considered the maximum sentence. Such a pattern of abuse is illegal whether it is within or outside a relationship. We have decided on a maximum sentence of five years' imprisonment, because we want to recognise the damage that coercive or controlling behaviour can do to its victims. That penalty is commensurate with the maximum available on the stalking offence in the Protection of Freedoms Act 2012. This new offence will send a clear message to abusers and victims alike that domestic abuse is wrong and it will not be tolerated in this country. If you are a victim, come forward and gain access to protection and justice. If you are an abuser, change your behaviour or face the full impact of the law. It is plain and simple.

This legislation is not a substitute for other vital work that the Government are doing to improve the response to domestic violence. The new offence cannot be implemented without an effective police response. The work that the Home Secretary is doing to drive improvements through her national oversight group on domestic abuse remains as high a priority as ever but

this new offence, together with the guidance for investigators provided for in new clause 10, will make it easier for the police to protect victims and to bring those who abuse them to justice.

The new offence is an opportunity to take an enormous step forward towards the eradication of the scourge of domestic abuse from our society, and I commend the new clause to the Committee. I am conscious that the right hon. Member for Dwyfor Meirionnydd has new clauses

in this group, which in part overlap with the Government's new clause, and that the hon. Member for Feltham and Heston has tabled new clause 27. I look forward to hearing what they have to say about the new clauses, and I will respond when winding up the debate.

Mr Llwyd: The Solicitor-General pointed at me when he mentioned the word "stalking". That was not because I am a stalker but because I had the privilege of chairing the group that brought in that law two years ago. Now another law I have worked on might well come through. The situation of two in three years is like London buses: there are many years of nothing, and then one after the other. As the Solicitor-General said, he had great experience of domestic violence and abuse while in practice as a lawyer. I share that experience, both as a solicitor and as a member of the Bar. I believe that this has been a long-standing void in our domestic violence laws. I am extremely pleased that the Government are moving forward on this today. I rise to speak to new clauses 3, 4, 5 and 6, which stand in my name.

Essentially, new clause 3 sketches out the offence of coercive control in the context of domestic violence. It deals with making regulations and also concerns the maximum sentence. New clause 4 if enacted would ensure that there would be no statutory time limits on the offence. I know that the Solicitor-General will respond positively on that.

New clause 5 deals with the definition of domestic violence, which is more or less in line with what the Government have put in their clause. New clause 6 is entitled: "Domestic violence: policies, standards and training". That new clause is key. It is vital that we get this matter right. There is no point whatsoever in introducing a law such as this, and I readily thank the Government for listening to the arguments for it, unless the prosecuting authorities are up to speed and ready to implement it properly.

It took some time to get police forces up and down the UK ready for the stalking law; now they are ready, but there was about a two-year time lag. This measure is as important, because the fallout of getting it wrong would be very damaging to many families. Let us not forget something the Solicitor-General said: such a fallout would be potentially damaging not only to the male and female in the association, but, crucially, to the children. We owe children a duty always.

I am delighted that the Government have accepted the rationale behind my ten-minute rule Bill. I shall support Government new clauses 9 and 10, although I wish to seek clarification from the Solicitor-General on some points in those new clauses.

Members of the Committee may be aware that, in February last year, I introduced a ten-minute rule motion that sought to criminalise all aspects of domestic violence and to bring in the offence of coercive and controlling

behaviour. Therefore, I am delighted that the Government have accepted that offence. A meeting that I had with the Home Secretary a couple of months ago was extremely positive and I was encouraged from that point onwards.

I am happy to say that I had the support of the hon. and learned Member for South Swindon, now Solicitor-General, who was then a Back Bencher; the hon. Member for Ayr, Carrick and Cumnock (Sandra Osborne); the right hon. Member for Chesham and Amersham (Mrs Gillan); the hon. Members for Manchester, Withington (Mr Leech), for Colchester (Sir Bob Russell) and for Hayes and Harlington (John McDonnell); the hon. and learned Member for Harborough (Sir Edward Garnier); the hon. Members for Brighton, Pavilion (Caroline Lucas), for South Down (Ms Ritchie), and for Islington North (Jeremy Corbyn); and my hon. Friend the Member for Arfon (Hywel Williams) when I introduced my Bill.

My motivation for introducing the Bill was that, although the Government adopted a new definition of domestic violence in March 2013, it was not yet a statutory definition, meaning that until this Bill Committee there were gaps in the law whereby individuals could perpetrate domestic violence and abuse and could not be arrested for that behaviour.

The cross-Government definition that I alluded to was adopted from the one used by the Association of Chief Police Officers:

"Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse:

psychological

physical

sexual

financial

emotional."

Members will notice that new clause 5(1) defines domestic violence in those terms and would put that definition on the statute book. That would be an important and perhaps symbolic move, so I still urge the Government to take similar measures to set out the definition in the Bill.

As has been said, last summer, the Home Office launched a consultation, which I believe triggered about 750 to 850 responses, asking whether a new offence of coercive control should be introduced. I understand that an overwhelming 85% of respondents signalled that they would support such a move. So I am gratified to see the Government new clauses, although there are still some points I wish to raise.

Members will notice that the penalties set out for being found guilty of an offence of coercive control under new clause 3, which I tabled, are stricter than those set out by the Government in new clause 9. I maintain that offenders who are found guilty on conviction on indictment should be liable to imprisonment, in the worst cases, for up to 14 years if their behaviour merits such a

term, although I heard what the Solicitor-General said—the sentence would be in line with that for the more serious stalking offences in the Protection of Freedoms Act 2012.

3 pm

I have already welcomed clause 65, which recognises that psychological harm in relation to child cruelty can be every bit as debilitating as physical violence. My new

Column number: 176
clauses are motivated by the same conviction—that emotional abuse and manipulative behaviour over a long period can be corrosive to a person's self-esteem to such an extent that many go on to suffer from post-traumatic stress disorder and anxiety-related issues, and some contemplate suicide.

A pattern of behaviour that involves coercive and controlling behaviour and a catalogue of abuses that a perpetrator uses deliberately in a crafted fashion is not a crime of passion that happens on the spur of the moment. Such behaviour has been described by some criminal behaviour psychologists as emotional rape, which, though extreme, goes some way to capturing the incapacitating impact it can and does have on its victims. For that reason, I do not think that a maximum of five years' imprisonment is a strict enough penalty for the worst offenders, but I await the response of the Solicitor-General.

A recent BBC "Panorama" episode, which centred on coercive control, claimed that one in 10 prosecutions now involves domestic violence, but only 6.3% of domestic violence cases reported to the police in England and Wales in 2012-13 resulted in a conviction. At the end of last year, my office undertook research into the laws covering domestic violence in four states of the United States: New York, North Carolina, Massachusetts and Texas. We were assisted by an American intern who was placed with us through the Hansard scholars programme. Where possible, direct contact was made with the assistant district attorneys and advocacy organisations in those states.

We discovered that in New York, when police are called to respond to a domestic violence incident, it is mandatory that they arrest the abuser on sight and fill out a domestic violence incident report. The most recently available figures showed that the Bronx had a 39% incarceration rate for cases involving domestic violence, and Brooklyn had a 35% rate. From our communications with Amily McCool, the systems advocacy co-ordinator of the North Carolina Coalition Against Domestic Violence, we discovered that in North Carolina, individuals have two years to bring a misdemeanour offence, and there is no statutory time limit for felonies. According to our research, that state had a one third conviction rate and a 23% rate of misdemeanour prosecutions that resulted in a sentence of incarceration.

Telephone conversations were conducted with Amily McCool; Rachel Newton, an assistant district attorney in Erie County in western New York; and Aaron Setliff, director of policy at the Texas Council on Family Violence. Each reported that, on average, victims of domestic violence in their states wait for seven or eight instances of abuse to occur before reporting the behaviour to the police. According to Refuge, victims in England and Wales suffer an average of 35

instances before reporting to the police. Therefore, tougher domestic violence laws are obviously needed to combat the lack of awareness and possible lack of confidence in our justice system to punish the behaviour and protect the victims. I am sure we all agree that we owe it to victims of domestic violence, whatever the nature of that violence or abuse, to ensure that perpetrators are brought to justice and that victims will be released from what is an imprisonment for them.

Subsection (3)(b) of new clause 3 requires a court, local authority and other public bodies not to disclose the current address of a victim, if it would place that

Column number: 177
victim under harm. I included this measure in response to the case of Eve Thomas, who was set on fire by her former husband and underwent domestic abuse over a period of 20 years. During an unrelated civil case, Bolton county court ordered Eve to disclose her address, which prompted her to campaign for a change in the law, so that addresses could be kept secret in unrelated court proceedings. The campaign, which goes under the name of Eve's Law, has won the backing of many, including the Deputy Prime Minister. I urge the Government to consider adopting it.

Subsection (3)(c) of new clause 3 gives the court the power to require perpetrators of coercive control to undergo appropriate counselling programmes to address their behaviour. The purpose of new clause 4 is to ensure that prosecutions for coercive control will not be subject to statutory time limits. Section 127 of the Magistrates' Courts Act 1980 provides a time limit of six months from the time that an offence is committed to the laying of an information. This applies to summary offences only, but I anticipate that the answer from the Solicitor-General will be that this offence will be an either way offence, in other words, it could be tried summarily or on indictment.

The Solicitor-General: I reassure the right hon. Gentleman that is the case. They are either way offences, so time limits will not apply.

Mr Llwyd: I am grateful to the Solicitor-General, because that is an important point. That is a considerable step forward. New clause 5 sets out a definition of domestic violence as well as coercive controlling behaviour. I draw the Committee's attention to subsection (2) of new clause 5 which sets out that coercive controlling behaviour involves a course of conduct that knowingly causes the victim or child to fear violence or experience serious alarm or distress which has a substantial impact on their day-to-day life and activities. I welcome the fact that subsection (4) of Government new clause 9 addresses the same points.

Finally, new clause 6 sets out that the Secretary of State shall require every police service in England, Wales and Northern Ireland to develop and adopt written policies and standards for officers' responses to coercive control and domestic violence incidents, within one year of the Act coming into force. The new clause will also ensure that all police officers will have appropriate training in how to deal with these offences and provide adequate support for victims of this offence. I believe that the Minister will say something about training when he responds, so I will not dwell on that point.

I welcome the fact that, in new clause 10, the Government have conceded the need for the Secretary of State to issue guidance on how cases involving coercive control should be investigated. However, I am a little concerned that they are not going far enough by putting a duty on police forces to train all officers in the new offence. I urge the Government to consider doing so. I think the Minister will respond on that point when he closes the debate.

I say this, not only because it is worth saying, but because my experience of the stalking law was that there was a period of about 12 months when relatively nothing happened. It took another 12 months for a good

number of police forces and Crown prosecutors to be brought up to speed. I am pleased to say that we are there now, more or less. I made the point earlier that it would be awful if we introduced this without immediate training, so that people have confidence from the very beginning. If not, people will just go back to the old feeling of, "Oh well, nobody will listen to me, it is just business as usual". It is absolutely vital that we get the training done as soon as possible.

There are a few more points on which I would welcome the Minister's comments. I was originally concerned about the motivation behind new clause 9, subsections (8) to (10). Having spoken to Government Members, I now appreciate the nuances of when this limited defence could be used: if the defendant believes they are acting in the best interests of the victim, for example when the victim is mentally ill, and the defendant has to find a way to compel the victim to take medication or be kept at home for protection.

I am glad that the defence will not be available when a court is satisfied that the defendant has caused the victim to fear violence. I note that the provision complies with the European convention on human rights. However, I must say that groups such as Women's Aid have been very concerned about this. Concerns about the tests are deeply held and are expressed by workers in the field of domestic violence, such as probation officers. Abusers can often be manipulative and are frequently the dominant partner in the relationship. They dominate, manipulate, undermine and make life miserable for their partner.

We have to look at that carefully. No doubt some will give the excuse that they are acting in such a way only because they love the victim. I ask for clear assurances that the guidelines that police will receive on this test will make it 100% clear that defendants must prove beyond reasonable doubt that the behaviour was in the best interests of the victim, and that the test would be objective and sparsely applied. When I first read the defence I was very concerned, and I know others in the Committee from all parties shared that view. Women's Aid is still very concerned. We have to be very careful, lest we undermine all the good work that is included in the two new clauses.

I have already asked whether the new offence will be subject to time limits, and I anticipate a positive answer. I would also be glad to have clarification on whether the police will be able to make an arrest in cases where a victim has already divorced their partner and even settled

financially. The new clauses proposed by the Government centre on controlling or coercive behaviour that takes place in an

"intimate or family relationship".

I would be glad to hear whether those circumstances could include relationships where coercive control has occurred post-separation.

Age UK is also concerned that the definition of family members in proposed new clause 9 is limited to those who live together, and would not cover family members who suffer from coercive control at the hands of another family member who does not live with them. That can take many forms, for example, financial abuse.

I have been approached by criminal justice professionals who have queries about how the new offence would operate. They are keen to know whether police investigations into coercive control could force the disclosure of documents

Column number: 179
such as bank statements. Other queries include the extra resources that prosecutors will be able to put into proving these cases and training operatives, and whether the police will be able to compel agencies such as district councils, social care and the Department for Work and Pensions to reveal the source of malicious allegations—risks to children, benefit fraud and so on—without a court order.

I would welcome the Solicitor-General's comments on all those points. As I have indicated, I shall not press my own clauses. I have of course read new clauses 9 and 10, and most of the contents of my clauses are encapsulated within those Government new clauses. I am delighted that the campaign, which began in February, has now seen the introduction of a very important law to bridge a gap that, I am afraid, has existed for some time. My particular misgivings remain, and I would be grateful if the Solicitor-General addressed them.

3.15 pm

Seema Malhotra: It is a pleasure to speak in this debate and to follow the right hon. Member for Dwyfor Meirionnydd, who spoke extremely eloquently. He deserves a huge amount of credit for his work on this issue and indeed on the stalking legislation, on which I will also touch during my remarks. I also acknowledge the contribution of my hon. Friend the Member for Middlesbrough, who made some important points about refuges. Support for victims of domestic abuse and domestic violence is very important. That is one of the reasons why we have committed to funding for refuges of £3 million a year for the next five years.

I also want to acknowledge Hutoxi Davis and Jackie Duke in my constituency and in Hounslow for their work on this and for their advice on some of these issues, and the work of Carl Bussey, the borough commander in Hounslow. As I became the shadow Minister just a few months ago, talking to those in the justice system, local authorities and campaign groups, as well as the sector which deals with victims of domestic abuse and sexual violence, has been important. I will draw

on a couple of case studies from my visits to Rise in Brighton, in which Rise board member Purna Sen played a very important part. I also acknowledge the work of Thangam Debbonaire of Respect, who contributed very helpfully to our thinking on these issues.

We very much welcome new clause 9. We are really pleased that it has been tabled and that we are debating the long-standing need for a change in legislation. Indeed, Labour has been calling for an offence of coercive control for some time. The shadow Home Secretary raised this issue back in 2012, so it has had an important history in the House. It is absolutely right that it has had cross-party support. Indeed, in July, the shadow Home Secretary also said that Labour would absolutely support and call for a specific offence of domestic abuse, with the scope for including emotional abuse and coercive control, which is so important.

Delighted as we are by the stage we have reached today, we all know that there is a huge amount more that we need to do to tackle the scourge of domestic abuse and domestic violence. Current laws have done very little to dent the number of cases that are reported every year. We have also been concerned about and have raised the use of inappropriate community sentences in

domestic violence cases. Instances of this doubled between 2009 and 2013, which may not send the necessary message of zero tolerance or provide intervention in what becomes repeat behaviour.

The policing of domestic abuse has been a matter of huge concern. The report by Her Majesty's inspectorate of constabulary last March raised huge issues—deep, systemic issues—about the policing of domestic violence and domestic abuse. The Bill and our debates come at an important time, as the police look at how to reform their systems and their processes to support victims more effectively. The Police Foundation has also done some important work on this. We welcome the change in the law, but with the caveat that it must be used properly and effectively to tackle domestic abuse and give victims the confidence to come forward early. There will be issues, which we must address now, about how evidence will be collected and collated in instances of psychological and emotional abuse, the perpetrators of which see themselves as beyond the reach of the criminal justice system and the police.

Indeed, our partners in the sector, which have worked closely with hon. Members of all parties, provide ample evidence of that fact. Women's Aid's domestic violence law reform campaign, Paladin National Stalking Advocacy Service, and the Sara Charlton Charitable Foundation conducted a survey of survivors of domestic violence. Some 98% of those they surveyed had experienced

"controlling, domineering and/or demeaning behaviours"

including,

"isolation from friends, family… removal of all communications devices; food being withheld as well as use of the toilet; control of what the victim would wear…sleep deprivation"

—a whole range of issues. Those of us who have been to many refuges across the country have heard those stories again and again; it is shocking that it continues to the extent that it does.

Within the current framework, if those behaviours were reported to the police, to date there would be very few arrestable offences, perhaps with the exception of stalking since November 2012. Perpetrators have been aware of the shortcomings of legislation and walked the fine line that allows them to control and manipulate their partners and family members without falling foul of the criminal law. It is time to ensure that the criminal justice system and the police move beyond seeing the scope of domestic violence as being about physical violence, and that we overhaul our approach to domestic abuse.

I echo and support some of the sentiments of the right hon. Member for Dwyfor Meirionnydd in his new clauses, one being the point about adequate training and guidelines for the police and other legal practitioners. It is incredibly important that we have that so that there is an understanding of how to collect evidence and bring an effective prosecution. Indeed, in the work that Vera Baird QC has done as police and crime commissioner in Northumbria, she has raised a number of issues that are important to address. One is the requirement for training for all judges on the new offence. Perhaps that should be a condition of hearing domestic abuse cases.

Last week, I met a woman who told me a sad story about how she had started off in a positive relationship, which changed when she was pregnant with the first child. The abuse was psychological, including a number

of the symptoms that I mentioned about control of what she could wear and who she could see. It isolated her from her family so she had very few support networks, and led to violence, including when the second child was born. Despite the perpetrator having been in and out of prison for the violent offences on more than one occasion, she now has to move to a completely different area. Her son, who is six years old, is waiting for mental health support services—therapy services—because he has been so traumatised.

The impact of domestic abuse, as has been highlighted by other hon. Members, on children is tremendous, hence the need to have clarity around the law and intervene early. The woman told me about a traumatic experience that she had in court, where it was extremely difficult for her to give evidence. She was told that if she did not give evidence, she would be jailed for 28 days. At that time, she was four months pregnant with a second child. There are more sensitive ways of dealing with such matters, where there is a deeper understanding of what a victim is experiencing. Has the Minister considered whether there could be automatic special measures in domestic abuse cases, as there are in rape cases, where there is a particular issue around manipulation, fear and control that victims experience, often for many years to come as they rebuild their lives? As those in the sector have told us, it is currently too easy for abusers to get away with what they do, because they know that if there is insufficient physical evidence they might not be convicted.

The Solicitor-General: The hon. Lady makes a very interesting point about special measures While it is fresh in my mind, my understanding—which is substantiated by advice I have been

given—is that special measures are available where the witness can demonstrate that the quality of their evidence will be diminished if they have to give evidence in the conventional way. Applications can be made in a variety of cases involving violence and other types of criminality. I envisage that this offence would certainly be encapsulated by the special measures regime with which the courts are familiar. I hope that that gives her some assurance.

Seema Malhotra: I thank the Minister for that intervention and I am extremely pleased to hear that. As this legislation comes into effect, it will be interesting to monitor how well it is being implemented and some of the issues that might be experienced, given that the same level of awareness might not exist across the country.

I have a few points of concern to raise before speaking about new clause 27. The first concerns the clarity of the definition and the proposed guidance. Again, I support the sentiments of the right hon. Member for Dwyfor Meirionnydd on this. The Government's intentions are clear from the consultation paper in August, which focused on the specific offence of domestic abuse to fill what was seen as a gap: there was a need for greater clarity about coercive and controlling behaviour in intimate relationships, given that violent behaviours were considered to be effectively criminalised through existing provisions. I assume—and perhaps the Minister can clarify this—that the guidance will contain clarity on the definition of

Column number: 182
coercive and controlling and that it will be line with the new definition of domestic violence which, though it is not in statute, came out in March 2013 and does provide wording. Will the Minister also say exactly how he would expect that to be considered in any prosecutions?

It is difficult when there are violent and non-violent aspects of somebody's behaviour and there are multiple offences that may need to be tackled under different legislation. Perhaps the Minister might also touch on this point. Although I understand that there are no statutory time limits for the new offence, when it comes to domestic violence cases, common assault is a common offence that has a six-month time limit. Therefore, if somebody reports both violent and non-violent aspects of abuse, but reports the non-violent aspects only after a year because of the trauma they have experienced, we could be in a situation where the non-violent aspects of the abuse can be considered under criminal law but the violent aspects cannot. I would be grateful for clarity about whether that is the case and whether that can be looked at again.

My second concern is about the issues that were raised by the right hon. Member for Dwyfor Meirionnydd, who also talked about Women's Aid's concerns about the defence. I thank the Minister for the letter that she sent to the shadow Home Secretary and me on this issue and the need for a defence, which I know has been drawn on. I have some further points. As has been stated, the defence is in two parts: subsections 8(a) and 8(b). This offence is often a particularly mendacious and manipulative form of abuse. It is often difficult to detect, recognise and prove, and we will face challenges as we move through cases for the first time. It is often based on the perpetrator exerting undue influence and control over the victim through intimidation or emotional manipulation.

3.30 pm

To have a defence based on A believing that he or she was acting in B's best interest could lead to a subjective justification that could be misused by the perpetrator, in a way that lends itself to further abuse within the court system. It is important to be careful with the wording, particularly in subsection (8)(a).

A very successful public figure—not in politics—spoke to me, giving no indication of trauma, after I told her of my new role. She described her experience of being abused at home and what she had been through post-university in what had seemed a blossoming relationship. She talked about the different roles that the perpetrator played in her life.

"When a woman meets a man and he is charming, then turns nasty and controlling, then abusive, then sexually abuses you, then cries, what do you do? They grind you down so much and then they are the ones who pick you up. They are your abuser and hero all in one."

There is something deliberately and deeply manipulative about such a relationship. Then, six months or a year later, the perpetrator says in court, "It was in her best interests that I did this to her." Imagine having to go through that experience.

Did the Minister consider whether subsection (8)(b) could offer a more objective defence, where the behaviour was in all circumstances reasonable? Would that sufficiently cover the different scenarios that are rightly of concern?

Column number: 183

New clause 27 proposes a study by Government of the benefits of having a national register of domestic abusers and serial stalkers. That follows various campaigns and a recognition that we need to do more to prevent the risk of harm from growing numbers of serial stalkers and perpetrators of domestic violence.

We know that there are more than 1 million victims of domestic abuse each year. We know that every 30 seconds the police will receive a call about domestic abuse. We know that a recent British crime survey found that 89% of victims who experienced four or more incidents of domestic violence are women. Over 30% of women experience domestic abuse in their lifetime, often with years of psychological abuse. More than two thirds of cases of sexual assault or stalking in the UK are against women.

The Local Government Association and Croydon council have begun to look at the issue following a murder in Croydon by somebody known to the police and previously convicted.

Mr Reed: I thank my hon. Friend for giving way and for that reference to Croydon's campaign. I congratulate her on an incredibly powerful speech about the horrors of domestic abuse and how widespread it is. Croydon's campaign was set up in light of the case of Paula Newman who was violently murdered by her abusive partner in November 2013 after a relatively short relationship. Neither the local authority nor the police were aware of the fact that her partner had a long history of violent abuse elsewhere. Because there was no national register, they were not alerted when he moved into the area and could offer no support to Paula on the risks of entering a

relationship with him. Tragically, as a result of that she is now dead. Croydon is leading a campaign in local government for the establishment of a national register of domestic abusers. I hope the Government will, at least, explore that idea. I invite my hon. Friend to comment on that campaign.

Seema Malhotra: I thank my hon. Friend for his comments and pay tribute to Croydon council on their campaign. It has helped to bring together the work done by Laura Richards and ACPO, and Paladin's arguments for such a register, and started a conversation about whether we need to explore this issue further. In Hounslow, Councillor Sue Sampson has been looking at what more we need to do to get better data on stalkers and to share that across forces for reasons that are very similar to those that my hon. Friend outlined.

There is no doubt that cases of stalking and harassment and the risks to victims are increasing. That includes the new ways in which people are approached, particularly through social media and spyware. There is a growing industry of harm to women and men, with stalking and its impact on the increase. This was described to me in conversations with ACPO. There is also ample evidence of serial stalkers as well as serial domestic violence perpetrators. A report on the facts about this issue, and the costs and benefits of a new measure in the future, could be the right way to start a conversation about whether we can do more to prevent harm to victims.

Other gaps need filling which could be considered as part of this measure or alongside it. For example, there are no sentencing guidelines for stalking behaviour, as

far as I understand, so we do not know how judges might be likely to sentence. The sentences that are handed down vary hugely.

Some have raised questions about the purpose of the register. It could be a register for citizens to call up, such as under Clare's law, or one that could improve the justice system. Our conversations so far have been much more in line with the debate about how we improve and join up the justice system to give forces more of the tools they need to be able to protect and intervene early. Consider the situation, for example, when somebody goes to the police for the first time in an area. The police may identify the perpetrator as someone who had actually been convicted elsewhere, possibly on more than one occasion. The register could highlight the potential seriousness and speed with which a domestic situation could escalate and provide stronger support to the victim at that time, who might otherwise continue without that knowledge and be unaware of how seriously the situation could develop.

The new clause calls for the commissioning of a report on the potential effectiveness of a national register of individuals convicted of more than one domestic abuse or stalking offence. It would ask key questions for protection and prevention, such as whether a national database should be available and accessible by all police forces. There would be a positive obligation to report a change of name or address or other possible relevant circumstances. The report would need to analyse the costs and benefits of such a measure. The current technical architecture of police and criminal justice information systems is a huge issue for the effective delivery of justice—I am sure that we would all acknowledge that. However, with local crime reporting

systems, the police national computer, the police national database, and ViSOR we have potential options. We now need the analysis to see how these and other bits of the jigsaw puzzle can more effectively fit together. We believe that that analysis will be helpful in deciding whether this is a useful road down which to travel and how we can strengthen the tools of prevention to better tackle violence against women and girls.

Paladin has also provided us with a number of important case studies showing in stark terms the consequences of the ineffective system we have today. Indeed, Paladin has highlighted to me that it tends to do more joining up than the police. It can identify the same perpetrator in a different part of the country because it deals with different victims. That is an important consideration. Are we looking to the voluntary and support sector to actually do some of our policing for us when their resources are already stretched?

Paladin raised the case of Ryan Ingham, who murdered his fiancée Caroline Finegan a few months after a violent attack which was so bad that she needed hospital treatment. It states that

"He already had 23 convictions for violence and harassment, mostly towards other partners. However, Caroline would not have been able to learn of his violent history by Clare's Law, as he was using a false name."

A second case is pregnant 17-year-old Jayden Parkinson, who was brutally murdered. As Paladin says,

"Her ex-partner Ben Blakeley was found guilty of her murder and sentenced to life. He has a history of serial abuse and was violent and controlling during all his relationships. Previous

offences had been reported to the police, but there is no system which allows for flagging and tagging and monitoring of serial offenders."

A similar amendment was tabled in the other place by Baroness Smith and Lord Rosser. They asked whether serial stalkers should be added to the violent and sex offenders register and managed through the multi-agency public protection arrangements or "MAPA". New clause 27 is slightly different. The Government's reasoning for rejecting that amendment at the time was that they were looking at a range of options to strengthen responses to stalking and domestic violence, which would rightly include the police response to managing perpetrators of these serious crimes. That absolutely needs to happen. However, we are also talking about the serial nature of this crime. We absolutely support the goal of managing perpetrators of stalking and domestic violence and ensuring that that goal is effectively met through operation improvements.

The reason that we believe this report is so important is that it will help to inform the best way forward in terms of improving current databases and systems for stalking and domestic violence. That will hopefully feed into conclusions about the cost-effectiveness of joining up systems more effectively to prevent many more victims from harm in the future. I look forward to the Minister's response.

Norman Baker: I welcome Government new clauses 9 and 10, which take matters forward in a helpful way. It is particularly good to see the progress that has been made over the past four years or so under the coalition Government in tackling violence against women and girls and, indeed, violence against men and boys; that factor should not be neglected when discussing these issues. I was particularly pleased by the introduction of the domestic violence protection orders and the domestic violence disclosure scheme. The latter seems to perform some of the functions which the Opposition's national register seeks to discharge, though the hon. Member for Feltham and Heston makes an interesting point about whether people using false names can be captured by the disclosure scheme on that basis. My hon. and learned Friend the Minister might want to reflect on that narrow point.

I also want to draw attention to the comments of Women's Aid on new clause 9(8). I do not actually believe, as the hon. Lady suggested, that deleting subsection (8)(a) would be helpful; in fact, it would weaken the subsection. However, I share the general concerns that we must ensure that this particular element of the new clause is appropriately worded and does what it is supposed to do, which is to provide a legitimate defence for those with a legitimate reason and not a way out for those who seek to exploit it.

Polly Neate, the chief executive of Women's Aid, says that

"the reality of the pattern of control and fear women experiencing abuse describe to us"

shows that

"the very nature of coercive control is that both the perpetrator's and the victim's perception of what is in her best interest are commonly distorted. In a situation where the alleged perpetrator

Column number: 186
is also the victim's carer, for example, we believe the only test of 'best interest' must be objective, for example the opinion of a trained professional."

That echoes the point the right hon. Member for Dwyfor Meirionnydd made earlier in the debate.

Frankly, I am not quite sure what the answer is. Personally, I find the word "reasonable" in subsection (8) a little jarring, and "justified" might be better, but I am not a parliamentary draftsman. However, I ask the Government to look again at the words in that subsection to make sure they are absolutely accurate in terms of what we all want to achieve.

3.45 pm

Will the Minister explain again—either now or in writing subsequently—the explanation he gave to my intervention earlier about the definition of a child? I do not want to labour the point, but new clause 9(2) refers to

"members of the same family".

Subsection (3), which relates back to it, talks about a child being under 16—that is the same family. However, subsection (7), which defines a child as being under 18, refers back to subsection (6), which also talks about people being in the same family. There is an issue there, and there may be an explanation, which I may have failed to understand when the Minister gave it to me earlier, but we should be clear. As Members will know, what happens to 16 and 17-year-olds is often brought up in these cases, and we need to be sure we are not creating a loophole.

I want to raise a further point on new clause 9 with the Minister. Subsection 4(a) states:

"A's behaviour has a 'serious effect' on B if…it causes B to fear, on at least two occasions, that violence will be used against B".

I am not clear from new clause 9 what the time scale for those two occasions is—they could, in theory, be 20 years apart. We need to be clear what the Government have in mind. Twenty years apart would probably not be a fair way of describing it, whereas six months apart would clearly be very relevant. Perhaps that will be picked up in the Government's guidance on new clause 10, but the point needs to be nailed down a bit more.

The right hon. Member for Dwyfor Meirionnydd made a good speech, and he has made some great contributions on this area over some time. He talked about the low prosecution and conviction rate, which is absolutely a concern for all of us. However, I hope he will recognise that this is not simply a matter of legislation—it is also a matter of enforcement and the way the police approach these issues. That is why Her Majesty's inspectorate of constabulary looked into them and why the Government were completely right to require each of the 43 police forces to say what they were doing about domestic violence and domestic abuse. No doubt, subsequent to my departure, those reports have arrived at the Home Office and are being pursued as they should be.

It is not necessarily the case that tougher domestic violence law is the answer; we need a combination of appropriate law and appropriate enforcement. My impression was that a large part of the problem was that the police did not have the correct mindset to take matters forward and were not looking at this issue with

the seriousness that Members of Parliament have been looking at it. It is that, more than anything else, that needs to change.

Colleagues on both sides of the House will remember that the police were not even photographing examples of domestic abuse when they came across them, and evidence was not collected. There was a catalogue of failures, and I hope that is being sorted out. Nevertheless, that is a major reason why the conviction rate is so low in this country compared with elsewhere.

The right hon. Gentleman has a couple of good points in his new clauses. Again, it would be helpful if the Government reflected on those points to see whether there is some merit in taking them forward. I was struck by his point about not disclosing current addresses or postcodes—that

was in new clause 3(3). Certainly, the case he referred to made that point well. There was also his point about the power to require those convicted of an offence to complete a domestic violence programme or an appropriate counselling programme. Again, the point was well made. We should reflect on those two points to see whether they can be taken forward sensibly—not necessarily through legislation, but through guidance or some other means—because they have validity.

Lastly, I draw the Minister's attention to a private Member's Bill in my name that is being debated on Friday. It seeks to deal with the one area in which we have not been as successful as I would have liked us to be in government, namely the provision of refuges throughout the country. That is because they have not been centrally controlled—I am not saying that they should be centrally controlled, but central Government's levers of influence have been fewer than in other areas. Different local authorities are taking different approaches, so we have seen a patchwork outcome. As a result, in some areas refuges are not present, or poor commissioning by local authorities has achieved the wrong result with the money they have. For example, some might exclude women who come from a different area and limit access to women from that area, which is clearly bonkers. If people are trying to escape violence, they do not want to be in a refuge close to where they were living. Such issues need to be sorted out, so I commend my private Member's Bill to the Minister. I trust that he will have a word with the Whips on Friday to ensure that it does not face objections.

Andy McDonald: It is a delight, as ever, Ms Clark, to serve under your chairmanship. I wish to flag up one or two issues, but also to congratulate Members on both sides of the Committee, because there have been some terrific contributions. The level of knowledge and expertise is heartening.

I want to flag up something for the Solicitor-General, not for a response today, because that would not be right, but for future reference. Often, domestic violence is not carried out by a single perpetrator; it is inflicted by many people in a family, or by an extended network. In that context, I have a concern about the disclosure of information by third parties as to the whereabouts of a victim of domestic violence and about steps taken by third parties to undermine the effectiveness of any court order, be that by disclosing information or interfering with the safety of children.

The Solicitor-General might wish to reflect on that and to have a discussion on a later day, but another issue is to do with new clause 6. The right hon. Member

for Dwyfor Meirionnydd talked about the need for every police service to develop written policies and standards, but on the transporting of victims and families—this was referred to in terms of refuges in the private Member's Bill of the right hon. Member for Lewes—there might be an opportunity to develop best practice so that a safe and secure means of transport is provided for victims and children. Information about their whereabouts could therefore not be disclosed to the very people who are trying to overturn the efficacy of a court order or a place of safety.

I make those points generally. I am not expecting comprehensive responses today. I merely flag the issues up for the Solicitor-General's consideration in due course.

The Solicitor-General: I am grateful to all right hon. and hon. Members who have taken part in probably one of the most significant debates that we have had in Committee. In order to do as much justice as I can to everyone, I will try to answer all the points made.

I will deal first with the speech made by the right hon. Member for Dwyfor Meirionnydd, who talked about pieces of legislation being like the proverbial buses that do not come around and then there are two at once. I was waiting at the bus stop with him—on two occasions. Our work together on the law on harassment and stalking and now on domestic abuse will certainly live long with me as proof that things can be done by this place and that change can be made if there is a will and a cross-party purpose to boot.

I want to deal with the new clause that the right hon. Gentleman tabled and consider properly the reasons for the Government's slightly different approach. The Government new clause has no reference to domestic violence or domestic abuse. That is deliberate. We are dealing with specific behaviour that can be characterised as coercive or controlling, but that should not be the subject of over-prescriptive statutory definition, which would do a disservice to victims. Myriad different relationships exist that are clearly, to the observer, dysfunctional, controlling and coercive. Victims would not be assisted by the creation of artificial definitions that could be misused. We did not fall into that trap when it came to the law on stalking and harassment. We should not fall into it now with the law on coercive and controlling behaviour within the context of domestic abuse.

The law serves a different purpose from the published guidance and the definition of domestic violence that is contained within it. We must ensure that we do not duplicate existing law, that the law is practical and that it can be used by criminal justice professionals. In drafting the new offence we worked carefully with the draftsmen to make it clear but not over-prescriptive.

In the consultation, we identified a gap in the law—behaviour that we would regard as abuse that did not amount to violence. Again, that is perhaps the important difference between the thrust of the probing provisions tabled by the right hon. Gentleman and the Government new clause. Violent behaviour already captured by the criminal law is outside the scope of the offence. Within the range of existing criminal offences a number of tools are at the disposal of the police and prosecution, which are used day in and day out. We do not want duplication or confusion; we want an extra element that closes a loophole.

Column number: 189

Having listened carefully to front-line professionals and groups such as Women's Aid, and other groups mentioned in the debate such as Paladin and the Sara Charlton Charitable Foundation, we understand fully that the stalking and harassment legislation, which should afford protection for victims through the criminal and civil courts, is applied inconsistently when it comes to intimate relationships. We believe that our new clause will deal with that problem.

We do not want victims to be deterred by a legal framework that does not work for them and that captures circumstances that fall short of the isolation and control they have experienced. I fear, despite the right hon. Gentleman's admirable intentions, that his new clauses could create loopholes and that they would fall short of the aspirations that he rightly has.

It is right to deal with the defence, as several Members have raised that. A balance must be struck. It is important to remember that the offence is not a subjective test that can easily be manipulated by cunning perpetrators. Importantly, under the provision, such behaviour must be reasonable in all the circumstances. It is not just a question of A saying "I think it was in B's best interest." There is an objective element to the test that allows the magistrate or jury to apply commonly understood principles of justice. What is reasonable in the circumstances should be considered through the objectivity test.

The burden is evidential rather than legal, rather as it is with self-defence—something that many right hon. and hon. Members will be familiar with. Again, we know that in the law of self-defence there needs to be a genuine and reasonable belief. It cannot simply be used as an easy get-out when it comes to the commission of offences. I am satisfied that the way in which the defence is drafted—let us not forget it excludes the threat of violence, which is important—will provide the necessary balance and take out those obvious cases of care that should not be within the purview of the provision.

4 pm

Mr Llwyd: The Solicitor-General understands the concerns—he has addressed them—but he will also know that people such as Harry Fletcher, who has been working extremely hard in putting these new clauses together, are still a little concerned. I am sure the Solicitor-General will ensure that prosecutors are fully up to speed on this matter, otherwise—I know he is aware of it and that he does not want it to happen—this could undermine the efficacy of the whole new clause, we would all be wasting time and, worse still, be raising hopes outside.

The Solicitor-General: I agree with the right hon. Gentleman, which is why the training of police, prosecutors and judges—everybody involved in implementing the provisions—is vital. I want to make sure—he made this point in the context of stalking—that any commencement of the provisions is consistent with proper training. It will take time to get proper training done, but let us do it properly so that we do not unduly raise the expectations of victims, only to find that we see poor implementation, a lack of understanding and in effect a complete let-down of those whom we seek to protect through the new provisions.

Column number: 190

The right hon. Gentleman asked various questions, which he helpfully put in writing, and I have written to him. He will have received my letter, which has been copied, today. I will deal quickly with some of the points he raised. On the application of the new offence where two former partners no longer live together, the offence will not apply in such circumstances, but of course we have existing legislation on stalking and harassment to deal with the circumstances in which coercive behaviour goes on beyond the marriage and the relationship, and beyond the couple's

living together. The provision deals with the loophole where people are still in an intimate relationship.

I hear what the right hon. Gentleman says about a maximum sentence. I entirely agree that very long prison sentences, which are available for very serious offences, should be meted out. We are dealing with serious conduct, but non-violent conduct, which is why the offences are either way and therefore triable in the Crown court, and why we have adopted the same level as adopted for the most serious stalking offences following the reforms.

Mr Llwyd: The Solicitor-General says that the provision will not apply to divorced couples, but is there not a slight conflict? New clause 9(6)(e) states that couples who

"have entered into a civil partnership agreement (whether or not the agreement has been terminated)"

would be caught, but couples who divorce would not.

Norman Baker: It is (6)(a).

Mr Llwyd: I apologise.

The Solicitor-General: What I am saying is that it is not dependent upon the actual act of divorce or termination of a partnership. I am talking about when couples are not living together. They might not be nisi or absolute, or there might not be a dissolution of the partnership. It is where they are not living together. That is the point that was concerning some practitioners in the field. I hope I have clarified that point. I took very seriously the point that was raised not only by the right hon. Gentleman, but by Advocacy After Fatal Domestic Abuse, which was another charity that took the trouble to contact me directly about the matter.

I will also put on the record the fact that I met Women's Aid late last week to talk about the concerns that it had about the defence and about its application. I think we agree absolutely that training is key.

On anonymity for victims, a powerful point was made about Eve's law. I am very familiar with that campaign and, in particular, with the problem that Eve Thomas had when it came to the civil jurisdiction. When it comes to the criminal jurisdiction, the Coroners and Justice Act 2009 confers powers on the court to make a witness anonymity order.

I assure the right hon. Gentleman that the Government's violence against women and girls action plan, which is for this year, is empowering the Home Office and the Ministry of Justice. They have committed to producing a new code of practice for protecting identities and safe addresses of domestic abuse victims. That has to apply across the piece. Eve's campaign and Eve's law is about ensuring that the criminal, civil and family jurisdictions

are all talking to each other when it comes to the need for anonymity. The Government absolutely understand the powerful point made and I pay tribute to Eve Thomas for her campaign.

I want to mention perpetrators and perpetrator programmes. I am sure that a lot of right hon. and hon. Members have been involved in their constituencies, as I have, in making the point that, if we do not deal with the perpetrators, we will never fully deal with the scourge of domestic abuse. It is important that male role models stand up and talk about how wrong domestic abuse is—I certainly have in my capacity as a constituency MP—and that work is done to ensure that there are accredited programmes. I am pleased to say that the Offender Rehabilitation Act 2014 will introduce a new rehabilitation activity requirement, which courts can use to determine appropriate interventions, including programmes aimed at domestic violence perpetrators.

Seema Malhotra: I wish to acknowledge the point that the Solicitor-General made, in relation to Eve's law and campaign, about the importance of anonymity in court. I want to pick up on the points that he is making, very effectively, about perpetrator programmes by recognising the work of Respect, which this week launched its final report on Project Mirabal, which contains some good insights and lessons that I am sure will continue to be valuable in the debate about perpetrator programmes and what makes them effective.

The Solicitor-General: I am grateful to the hon. Lady for bringing that up. In that context, it is right to talk about the domestic violence protection orders—the new civil orders that deal with powers for the police and magistrates courts to put in place protection in the immediate aftermath of a domestic violence incident, preventing perpetrators from returning to the residence and from having contact with a victim for up to 28 days. That gives the victim breathing space so that they can consider their options, rather than in the context of a constricted and often panicked immediate reaction when nobody has any time to think straight or to come to some sort of conclusion about their options.

One option that a victim might choose during that 28-day period is the application for a non-molestation order. Breach of those orders can be a criminal offence. After trial, there is the power to apply for restraining orders in domestic violence and abuse cases on the conviction or, in fact, the acquittal of a defendant. Criminal behaviour orders were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 and can be issued by any criminal court against an offender who is likely to cause harassment, alarm or distress to another person. They can include not only prohibitory requirements, but positive ones to get the offender to start to address the underlying causes of their behaviour.

If perpetrator engagement is done well, it can be effective. In the minds of many victims, there are concerns about how perpetrators are engaged with. Practitioners in the field understand that. Sensitively applied, thorough, careful perpetrator engagement programmes can work—not in every circumstance, but where it is finely judged, they are a proper option.

Police standards and training are the thrust of new clause 6. Last March, there was the important report from Her Majesty's inspectorate of constabulary, which

related to the police response to domestic abuse. The Home Secretary responded by setting up a new national oversight group to drive delivery against the report's recommendations. That includes work by the College of Policing to establish new professional standards for the policing of domestic abuse. My right hon. Friend wrote to chief constables setting out her expectation that every force should have in place an action plan to improve their responses to domestic abuse. I am happy to say that all 43 forces have now published action plans, which have been quality reviewed by HMIC. I am sure we were all pleased to note that Sir Tom Winsor's report, which was released in November, highlighted encouraging progress. I can see the thrust of the approach of the right hon. Member for Dwyfor Meirionnydd, but I am sure that he would agree that it is through those measures, rather than primary legislation, that we will achieve the leadership and driving up of standards that are essential.

The hon. Member for Feltham and Heston referred to the police and crime commissioner for Northumbria. One of my predecessors, Vera Baird QC, is doing admirable work in providing some leadership on training, particularly of the judiciary. It is an example of how police and crime commissioners work and are doing an effective job. We should remember that in the context of the wider debate on their efficacy. They do have a role to play, and Vera Baird is certainly doing that.

The right hon. Member for Dwyfor Meirionnydd asked about the gathering of evidence. I assure him and the Committee that section 8 of the Police and Criminal Evidence Act 1984 will apply to investigations of the new offence of coercive control. It allows the police to apply for search warrants to gain access to materials, such as bank statements, that are likely to be of substantial value to the investigation where they are relevant evidence. We can already think of examples of coercive control, such as where one bank account or debit card is controlled by one partner, with no access to finance or resources for the victim. That would clearly be important evidence.

That brings me to the general point on how evidence is to be gathered. I have given the right hon. Gentleman one example. We already have experience under the new stalking and harassment legislation of how to gather evidence on a course of abusive conduct. It all starts with a properly gathered complainant's statement, painstakingly setting out the course of events that that person has had to live with. From that section 9 statement should flow a police investigation that seeks to substantiate the claims that are made. It is not to start with an impossible task by any means. Yes, there will be some complex cases, but experience has shown that neither the police nor the Crown Prosecution Service has been deterred from pursuing cases to successful conclusions, and I see no exception to that here. When it comes to detail, we will publish statutory guidance that will address the issues and concerns raised by Members.

I wholeheartedly agree with the sentiment behind new clause 27, which was tabled by the hon. Member for Feltham and Heston. The police, wherever they are in the country, should have ready access to information on serial abusers and stalkers. That is absolutely vital if we are to manage effectively the risk that they pose. From my many meetings with such organisations as Paladin, I understand the need for risk management and risk assessment of serial perpetrators.

The hon. Lady referred to the need to establish a bespoke register of such individuals. As I understand it, the new clause is slightly different from the Lords amendment, in that it does not propose a fully blown register as pursuant to the Sex Offenders Act 1997, which created a register on which all certain types of serious sex offender have to register on conviction. The new clause proposes more of a database and sets out the means by which information would be collected. It is important to note that convicted stalkers and domestic abusers are already captured on the police national computer, but we should always look to try to improve how data are recorded, accessed and shared.

4.15 pm

Seema Malhotra: I want to touch on the point about what information is held on the police national computer versus the police national database. It is not clear what is held or what is transferred from local forces, where 43 police areas have their own local databases. There is inconsistency about what goes on to the police national database. On the police national computer, I do not believe that there is anything that would automatically identify domestic violence perpetrators, because they could be prosecuted and convicted for a range of crimes. Unless there is a flag on there saying DV, there would be no way of knowing that that common assault offence was DV-related. There are still conversations to have about what is held and what is accessible for the purposes of this policy goal.

The Solicitor-General: I note what the hon. Lady says about perpetrators and offenders who have a range of offences. Sometimes in the past, when there has been a lead offence, perhaps involving serious violence, that has been flagged, but it has not necessarily been reflected in the data.

There is, of course, a difference between the police national database and the police national computer. The difference is essentially about intelligence, as opposed to the fact of conviction. The PNC holds details of all convictions and cautions for recordable offences. The PND holds data on crime custody records, child abuse, domestic abuse and intelligence. In addition, the PND will link records from the different systems and different forces into a match group, which is deemed to pertain to one real-life individual, so there is a more complete picture of the offending behaviour. Through that, alerts can be sent to notify officers when new data on a person, location, object or event are loaded on to the PND.

These are current data: 37 out of 43 forces provide daily uploads of data on domestic abuse cases; three provide monthly updates and three are currently implementing new systems, and consequently uploading legacy updates only. Daily data loaded to the PND are matched and indexed and available to all forces within 24 hours.

Mr Llwyd: When there is a conviction for stalking, is it recorded as a breach of the Protection from Harassment Act 1997 or is it specified as being an offence of stalking?

The Solicitor-General: It will depend on how the input is made. The stalking legislation amended the 1997 Act, so it should specify the subsection under

which the person was prosecuted. Looking at that, the right hon. Gentleman and I would know that the particular section—I think it is 4A—would tell us that it is a stalking offence. If that process is followed properly, those reading it should have an easy understanding that that was a stalking offence, as opposed to simple harassment. He is right to make the point, because clearly the quality of recording is always important.

I hope that I can offer the hon. Member for Feltham and Heston some reassurance. It is possible to flag recorded offences on the PNC as domestic abuse cases. We know, however, following the HMIC report, that that is not done consistently. We are addressing that by mandating a national data standard from 2015-16 that will ensure that all forces systematically capture all convictions for domestic abuse-related recordable offences. That is an important change that will go a long way to dealing with the mischief she rightly identifies.

Mr Reed: I am working closely with Croydon council on its campaign. It insists, as do the local police, that the existing ways to capture and share data are inadequate to alert them to the risks. The Minister says that the Government are looking at new ways to capture that data, but will he at least agree to consult the sector directly affected—voluntary organisations, local authorities and police—on whether what he proposes will meet its requirements for effectiveness before he takes a final view on the register?

The Solicitor-General: I am grateful to the hon. Gentleman. What I can say is that the Government will look very carefully at the rolling out of the national data standard to make sure that the aspiration and the recommendation made by Sir Tom Winsor is carried out. We want a national flagging system so that the sorts of problems that his council and local police officers talk about are dealt with. We do not have that at the moment. We have the national database, which can give a picture of individuals, but we still do not have consistency on the PNC. It is this year that it is happening. We need to keep a very close eye on the rolling out of the national data standard and if that, for whatever reason, still does not deliver what we all want to see, then, of course, all these matters should be looked at in due course.

It is a question of continually monitoring the situation, but it is important to note that the Government are already taking real action to deal with the problems that we have talked about. It is not, by any means, the only step we are taking to manage effectively the risk posed by serial perpetrators. Following the report, the Home Secretary's national oversight group on domestic abuse is overseeing work by the College of Policing to evaluate current risk assessment techniques and to provide practical advice on how to get the best from them. The college's What Works Centre for Crime Reduction is also undertaking a review of the evidence base on the effectiveness of criminal justice interventions in reducing domestic abuse. That includes the effectiveness of perpetrator programmes, to reference comments I made earlier.

Police force action plans, which were published following the Home Secretary's letter to chief constables, demonstrate that the police are actively focusing on effective and

practical steps to identify and disrupt perpetrators. Of course, this also complements the roll-out of the domestic violence disclosure scheme, which we all know as Clare's law, which allows the disclosure of information about a perpetrator's offending past. We have achieved this without the legislation, however well intentioned, proposed in new clause 27.

I shall deal briefly with the points made by my right hon. Friend the Member for Lewes. On the question of "two or more occasions", that is, quite properly, deliberately left open to allow proper consideration of the full circumstances of the case and we will provide further guidance on this in the statutory guidance, as he suggested. Taking a leaf out of the harassment and stalking book, it will depend very much on the facts of each case. A course of conduct has to be established on at least two occasions under that legislation and it has been proved to work very well. There have been a number of case authorities about the nature and frequency of incidents, but there is no hard and fast rule, nor should there be, because each case will be different and will depend upon individual evidence.

I remind my right hon. Friend of where we are. He did a lot of work when he was a Minister on the investment that we have made over the past two years—up to £10 million—to stop refuges closing and to help local authorities grow refuge provision for vulnerable victims. This is all part of the work we have to do to increase confidence among victims that not only will they have a safe haven if there is nowhere else to go, but that they will be listened to with the utmost seriousness and taken seriously when they make a complaint about violence or coercive and controlling behaviour.

In putting forward the offence in new clause 9, the Government considered very carefully the 757 responses to the public consultation. We have used that feedback to hone our proposals and to ensure that we can deliver the best possible outcome for victims. Having heard my explanations, I hope that my right hon. Friend and the other Members of the Committee who have spoken will understand why the Government's new offence is framed as it is and will withdraw their amendments. I firmly believe that our proposals will deliver our shared aim plainly and proportionately.

Mr Llwyd: The Solicitor-General has examined the amendments in great detail and responded in full. I do not think that I could have expected any more, to be honest. New clauses 3 to 6 are, more or less, encapsulated in new clauses 9 and 10. It would therefore be churlish and not a little foolish of me to do anything other than say that I will not press new clauses 3 to 6 to a Division.

Seema Malhotra: I also acknowledge the detail with which the Minister has responded. On new clause 27, I was pleased to hear a positive response with acknowledgment of the issue and of the fact that we may need to look at whether current arrangements are fit for purpose. We will not press the new clause on this occasion but reserve the right to raise the issue again following further exploration.

Question put and agreed to.

New clause 9 accordingly read a Second time, and added to the Bill.