

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

IMMIGRATION BILL

First Sitting

Tuesday 20 October 2015

(Morning)

CONTENTS

Programme motion agreed to.
Motion to sit in private agreed to.
Written evidence (Reporting to the House) motion agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

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Saturday 24 October 2015

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY
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THE BOUND VOLUMES OF PROCEEDINGS
IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chairs: † MR PETER BONE, ALBERT OWEN

† Blomfield, Paul (<i>Sheffield Central</i>) (Lab)	† Lewell-Buck, Mrs Emma (<i>South Shields</i>) (Lab)
† Brokenshire, James (<i>Minister for Immigration</i>)	† McLaughlin, Anne (<i>Glasgow North East</i>) (SNP)
Buckland, Robert (<i>Solicitor General</i>)	† Newlands, Gavin (<i>Paisley and Renfrewshire North</i>) (SNP)
† Champion, Sarah (<i>Rotherham</i>) (Lab)	† Smith, Chloe (<i>Norwich North</i>) (Con)
† Davies, Byron (<i>Gower</i>) (Con)	† Starmer, Keir (<i>Holborn and St Pancras</i>) (Lab)
† Davies, Mims (<i>Eastleigh</i>) (Con)	† Tolhurst, Kelly (<i>Rochester and Strood</i>) (Con)
† Elphicke, Charlie (<i>Lord Commissioner of Her Majesty's Treasury</i>)	† Whittaker, Craig (<i>Calder Valley</i>) (Con)
† Harris, Rebecca (<i>Castle Point</i>) (Con)	
† Hayman, Sue (<i>Workington</i>) (Lab)	Marek Kubala, Joanna Welham, <i>Committee Clerks</i>
† Hoare, Simon (<i>North Dorset</i>) (Con)	
† Hollern, Kate (<i>Blackburn</i>) (Lab)	† attended the Committee

Witnesses

Judith Dennis, Policy Manager, Refugee Council

Mike Kaye, Co-ordinator, Still Human Still Here

John Wilkes, Chief Executive, Scottish Refugee Council

Professor Sir David Metcalf CBE, Chair, Migration Advisory Committee

Kevin Green, Chief Executive Officer, Recruitment and Employment Confederation

John Miley, Chair, National Association of Licensing and Enforcement Officers

Caroline Robinson, Policy Director, Focus on Labour Exploitation

Public Bill Committee

Tuesday 20 October 2015

(Morning)

[MR PETER BONE *in the Chair*]

Immigration Bill

9.30 am

The Chair: Before we begin, I have a few points to make. Please switch electronic devices to silent mode. For some reason I have never entirely understood, tea and coffee are not allowed during the sittings. Today we will first consider the programme motion on the amendment paper, then a motion to allow us to deliberate in private about our questions before our oral evidence sessions, and then a motion to enable the reporting of witnesses' evidence for publication. Given the time, to allow us most time for cross-examining witnesses I hope that we will be able to take the motions formally.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.30 am on Tuesday 20 October) meet—

- (a) at 2.00 pm on Tuesday 20 October;
- (b) at 11.30 am and 2.00 pm on Thursday 22 October;
- (c) at 9.30 am and 2.00 pm on Tuesday 27 October;
- (d) at 11.30 am and 2.00 pm on Thursday 29 October;
- (e) at 9.30 am and 2.00 pm on Tuesday 3 November;
- (f) at 11.30 am and 2.00 pm on Thursday 5 November;
- (g) at 9.30 am and 2.00 pm on Tuesday 10 November;
- (h) at 9.30 am and 2.00 pm on Tuesday 17 November;

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

TABLE

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 20 October	Until no later than 10.15 am	Still Human, Still Here; the Refugee Council; Scottish Refugee Council
Tuesday 20 October	Until no later than 10.45 am	The Migration Advisory Committee
Tuesday 20 October	Until no later than 11.25 am	The Recruitment and Employment Confederation; the National Association of Licensing and Enforcement Officers; Focus on Labour Exploitation
Tuesday 20 October	Until no later than 2.30 pm	The Confederation of British Industry
Tuesday 20 October	Until no later than 3.00 pm	Migration Watch UK
Tuesday 20 October	Until no later than 3.45 pm	National Landlords Association; the Residential Landlords Association; the British Bankers Association
Tuesday 20 October	Until no later than 4.15 pm	The Metropolitan Police; Sandwell Metropolitan Borough Council

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 20 October	Until no later than 5.00 pm	The Children's Society; Coram Children's Legal Centre; the Office of the Children's Commissioner
Thursday 22 October	Until no later than 1.00 pm	The Immigration Law Practitioners' Association; Manjit Gill Q.C., Colin Yeo, barrister; the Detention Forum; Migrants' Rights Network
Thursday 22 October	Until no later than 2.45 pm	The Local Government Association; the Association of Directors of Children's Services
Thursday 22 October	Until no later than 3.30 pm	The UNHCR; the British Red Cross
Thursday 22 October	Until no later than 4.30 pm	The Joint Council for the Welfare of Immigrants; Amnesty International; the Equality and Human Rights Commission; Liberty

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 10; Schedule 1; Clause 11; Schedule 2; Clauses 12 to 18; Schedule 3; Clauses 19 to 27; Schedule 4; Clauses 28 and 29; Schedule 5; Clauses 30 to 34; Schedule 6; Clause 35; Schedule 7; Clause 36; Schedule 8; Clauses 37 to 50; Schedule 9; new Clauses; new Schedules; Clauses 51 to 56; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 17 November.—(*James Brokenshire.*)

The Chair: On the basis of the programme motion, the deadline for amendments to be considered on 27 October, when the Committee will begin line-by-line scrutiny of the Bill, is the rise of the House on Thursday 22 October.

Resolved,

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

Resolved,

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

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room. We will now go into private session to discuss our lines of questioning, so anyone who should not be here should now please go.

9.31 am

The Committee deliberated in private.

Examination of Witnesses

Judith Dennis, Mike Kaye and John Wilkes gave evidence.

9.36 am

The Chair: We will now hear oral evidence from Still Human Still Here, the Refugee Council and the Scottish Refugee Council. Before calling the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee has agreed. For this session, we have until 10.15 am. Welcome to our witnesses; will you please introduce yourselves for the record?

Mike Kaye: I am Mike Kaye, the advocacy manager for Still Human Still Here.

Judith Dennis: I am Judith Dennis, policy manager at the Refugee Council.

John Wilkes: I am John Wilkes, the chief executive of the Scottish Refugee Council.

Q1 Keir Starmer (Holborn and St Pancras) (Lab): It is a pleasure to serve under your chairmanship, Mr Bone. This question is directed to Judith Dennis and Mike Kaye in the first instance. You have both expressed concern about the adverse consequences of the provisions on the removal of support in the Bill. Will you tell the Committee what, in headline terms, your concerns are? You have also expressed a concern that the provisions will fail to further the Government's stated aim, so as well as the adverse consequences, will you outline how, if at all, the Bill will support the Government's stated aim?

Judith Dennis: We think that the Bill is incompatible with the processes for families to engage with the Home Office if they want to return or have come to the end of the asylum process—these measures would not be compatible with that. The Bill will shift responsibility to local authority children's services, which have a duty to support children in need. We do not think that it will achieve the desired outcome, partly because families will inevitably lose touch with the Home Office—there will be no incentive for them to keep engaging with the Home Office to try to resolve their situation. Indeed, when a similar measure was piloted in the past, that is what happened. Mike can probably talk more about the impact on individuals.

Mike Kaye: To take up that point, one of the Bill's goals is to encourage the departure of refused asylum seekers with no lawful right to remain. Members of the Committee should be in no doubt that the Bill will not increase voluntary returns or forced removals. You do not need to take my word for that. We already have on the books section 9 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, which allows these very measures to be put in place. The Home Office's own review of a pilot carried out in 2005 found that a third of families absconded. The review compared the pilot with a control group of people who continued to be supported, and the number of people who absconded in the pilot was double that in the control group who were supported. The number of forced removals in the pilot was one family, as compared with nine in the control group. The Home Office's conclusion was that it did not significantly increase voluntary returns and that it should not be used as a blanket policy. It is ironic, therefore, that 10 years on, we are trying to implement the very policy that did not work beforehand. You only have to look at other reviews that have been carried out, where Home Office staff have said, "You should keep refused asylum seekers supported because it allows them to be removed", yet the Home Office is ignoring the advice of its own staff.

I have to say that this is really an abdication of immigration control—if Committee Members are concerned about immigration control, they should be concerned about this measure—but much worse, it is an abdication of responsibilities to children's welfare. Bear with me, and I will explain what the impact will be on the people affected. Asylum seekers generally do not have great health. You have people who have experienced torture or who have witnessed or had traumatic experiences.

The Royal College of Psychiatrists said that their mental health deteriorates on impact with the system. If they are pregnant, they are three times more likely to die than the general population—that is in general. The level of support that they are on, and most of them would be destitute, is £5 a day to meet the essential living needs of food, clothing, toiletries, transport and anything else. I am not saying that you will starve on £5 a day—you will not—but if you are on that for an extended period of time, it will have consequences for your health and wellbeing.

Currently, we have more than 3,500 asylum seekers waiting more than six months for an initial decision, and appeals are listed six months ahead. Now, if you get to the point where you cut that group off entirely from support, their health will deteriorate much faster than that of the general population. It will cause and exacerbate existing health problems. You only have to look at some of the serious case reviews from the last few years, where asylum-seeking mothers have died from health issues. Those serious case reviews have found that the removal of support was one of the exacerbating factors, so we should be in no doubt that this will have very serious consequences.

Q2 Keir Starmer: You have mentioned the adverse consequences and the number of families in the pilot, some years ago, who disappeared off the radar. How does this compare with supported returns—family support in the return programme—in terms of achieving the Government's aim?

Mike Kaye: As I just mentioned, one of the aims is getting people to return home, and it is less effective once you remove support, because, as Home Office staff have said, when you do not know where someone is, it is that much more difficult to locate and remove them, so the absconding rate is double once you remove support. Even if asylum seekers wish to stay in contact, and there is no incentive for them to do so, it is very difficult once they become destitute, so this does not achieve the stated goal of trying to get people to return home at the end of the process.

Q3 Keir Starmer: Thank you. You have mentioned children and the impact on them on a number of occasions. Will you give a bit more detail on what the impact might be on local authorities if support is withdrawn for children that come within their area? How does that work and what might the consequences be for the local authority?

Judith Dennis: The local authority has a duty to all children in its area who are in need, so it will be obliged under that legislation to assess the needs of families and of those children, and to provide services accordingly. Of course, in this country, we are very proud of the Children Act in England and Wales, and the Children Acts in Scotland. We are under no illusion that local authorities will want to fulfil those duties and will want the Government to support them financially for that, but we can see from other families who have no recourse to public funds that local authorities are bearing the responsibility of providing for the children. Of course, if you are going to provide for the children, it is both morally and financially sensible to provide for the whole family, so we think there will be a great impact on local authorities.

Q4 Keir Starmer: Following up on that, you have mentioned finances. Are there circumstances in which you envisage that it will be necessary to remove a child from a family in order for support to be provided by the local authority?

Judith Dennis: That should only be done if there are concerns about the parenting, as with other families. It is not a principle of the Children Act that we remove children from their parents and carers if they are doing a perfectly fine job of looking after them. The Children Act was brought in with that principle in mind: that families should stay together, because they are the best people to bring up their own children, and that should happen regardless of the financial difficulties they are in. That is why we have the Children Act to provide that financial support where necessary.

Q5 Keir Starmer: Hence the local authority, in those circumstances, would step in and provide the support that is being removed under the Bill.

Judith Dennis: Indeed.

Mike Kaye: It is instructive to look at the section 9 pilot again. Barnardo's did a review with 33 local authorities and none of them thought that section 9, which is the equivalent of what we are looking at with this clause, was compatible with the Children Act. They all had concerns about the transfer of cost to local authorities, which would not be reimbursed; the fact that they would still have to do reviews of whether the child was in need and whether human rights were being breached; and that they were opening themselves up to litigation. All those concerns are equally valid for this Bill. The Government's intention is that local authorities will not support, but I do not see how you can square the circle with the Children Act in that respect.

Q6 Keir Starmer: Thank you. Finally from me, there are provisions in the Bill to prevent appeals against decisions on support. Can you give some evidence as to the quality of the decisions currently being made about the support available in such circumstances?

Mike Kaye: Yes. On the Home Office's decision-making on asylum support, just to be clear: if someone thinks that there is an obstacle to them returning—for example, they are too sick to travel or they are trying to return but their Government will not issue them with documents—the Government should provide them with support. The same is true for the Bill. In practice, that is often very restrictively interpreted. For example, even when the Iranian embassy was closed, Iranian asylum seekers who were trying to return home and could not get documents were still refused support.

If you are refused support, you can go to the asylum support tribunal. Currently, with more than 60% of cases that go to the tribunal, either the case is overturned by the tribunal, so the asylum seekers are given support; or the decision is remitted back to the Home Office because the tribunal does not think it was right; or the Home Office withdraws the decision because the tribunal thinks it is flawed. If you are getting more than 60% of decisions wrong, how can you take away that means of appeal? You are actually leaving people destitute. That decision to leave a family destitute is far too important to remove the right to appeal, especially when the vast majority of those decisions are wrong in the first place.

Q7 Keir Starmer: Am I right that people may be left destitute on the basis of a decision that is wrong or that needs to be retaken?

Mike Kaye: Exactly right.

Q8 The Minister for Immigration (James Brokenshire): Mr Kaye, do you agree, in principle, that there should be an ability to take sanctions against people who have no right to be in this country and are frustrating efforts to remove them or not co-operating with a voluntary returns mechanism? Do you accept that principle as a legitimate policy response?

Mike Kaye: Absolutely. We have a system whereby we try to discover whether people meet the criteria for refugee status. It is a very tough measure. You have to prove that you are being persecuted as an individual, that your Government are unwilling or unable to protect you, and that there is no other area of your country that you can go back to and be safe. It is a high measure to prove. I fully accept that if people do not meet that and if that assessment is accurate, they need to return to their home countries.

What I have highlighted is that the measures in the Bill will not help you to return individuals who have come to the end of the process. If you really want to return people at the end of the process, you need to stay in touch with them. Quite often an equation is made between refused asylum seekers and abusive asylum seekers. That is not the case for the vast majority. Last year, the Home Office refused 70% of Iraqis, 70% of Libyans, and 65% of Afghans. I am not necessarily saying that those decisions are wrong. I am saying that you need to understand that those people at the end of the process still have a fear about returning and that is why they do not always co-operate. I take the Minister's point that sometimes people are not co-operating because they do not want to go home and they should rightfully go home, but for an effective policy, you need to stay in touch with people to encourage them to return voluntarily return or if forced removal is to take place.

Q9 James Brokenshire: There is obviously a distinction that can be drawn. Clearly, you are not supportive of certain aspects of the policy, but I think you have taken the principle. Can I ask about the safeguards that would operate? Am I right in saying that the provisions under section 55 of the Children Act would apply and that provisions relating to destitution would be there in terms of support?

Mike Kaye: I think it is section 55 of the Immigration Act; but this is a question for you, Minister, about something that we do not understand. You said on Second Reading that the protections in the Children Act would be retained. You said in the consultation that safeguards would be introduced for children. I do not understand how you can safeguard children from destitution when it is the explicit aim of the policy that children should not get support from statutory services, local authorities or central Government. Will you explain that to Members, because I cannot square that circle.

The Chair: Can I just jump in? I should have explained to witnesses—I apologise for not doing it at the beginning—that Ministers love these sessions. It is a time that they get to ask questions, rather than getting grilled. I want to bring some more Members in, because I have about five queuing up to ask questions.

Q10 Craig Whittaker (Calder Valley) (Con): Mr Kaye, are you saying that appeal rights-exhausted families who could and should leave the UK should be entitled to automatic and indefinite support, either from local authorities or the Home Office, if they do not leave?

Mike Kaye: I am saying that if you are really concerned about immigration control, if you want these families to leave, cutting off support from them not only risks the children coming to harm but impairs your ability to enforce removals or encourage voluntary return.

Q11 Craig Whittaker: My question, though, was whether you are advocating that we provide indefinite ongoing support for people if they refuse to leave?

Mike Kaye: I think that for families with children, that is the way to have effective immigration control.

The Chair: Could I just jump in? I wonder whether Mr Wilkes and Judith Dennis would like to speak on this particular point as well, so that we hear from all three witnesses.

John Wilkes: I think that we still have to support families and those whose appeal rights are refused while engaging with them about the options for return. Taking away support does nothing to facilitate that; all it does is force them to think about what support they can get or force them to disappear from the system. There are no other families in the UK who do not have some form of entitlement to support, so I do not see why these families, who we are trying to work with on their decision—and ultimately, for people who are in that category, on their removal—should not have support. There is no evidence, from any of the other initiatives the Home Office has tried, that taking away support, particularly for families, is going to achieve the policy goal of removal. That is what the policy goal is: we need to look at other ways of achieving it.

Judith Dennis: I absolutely agree. It is frightening to think of the alternative. We are actually talking about making families destitute, so that they have no means of support. What are they going to do? I do not think that that is going to encourage them to go along to the Home Office and say, “May I sign up for voluntary return, please?” The family returns process is a better process for families, because it takes into account their complex situations and the fact that they have very difficult decisions to make, and that those decisions may take some time to come to. If you are a family who fears that their daughter is going to be subject to female genital mutilation on return, but you have not been able to prove that, you are still going to have that fear. Your fear is then, “Which is better? I’m between a rock and a hard place; I don’t know whether to stay here and take my chances. I may get exploited, I may have to live on the streets, I may have to take support from strangers and sleep in their houses and put myself in dangerous situations. Or do I take my family back to what I think is a dangerous situation?”. The family returns process encourages engagement on an ongoing basis. It is a process with four stages; it is very well set out in policy. Family engagement managers are employed specifically to talk to families about those very difficult decisions that they have to make. So I do not think it is reasonable to portray these people as just sitting about, avoiding immigration control and refusing steadfastly to go back to where they came from. It is much more complex than that.

Q12 Craig Whittaker: Down to brass tacks, then. I think what all three of you are saying is that those families who have exhausted the appeals process, should not be in the UK and should be returning home should get indefinite, automatic support ongoing. Is that what you are all saying?

John Wilkes: People should be supported while we are engaging with them about their choices. There is already a high level of destitution.

Q13 Craig Whittaker: How far does that go, though? That is the question I am trying to get at, because at the end of the day these people are in our country illegally. How far do we expect the taxpayer to continue paying, whether it is for housing or whatever, for people who should not be in our country?

Mike Kaye: When you say indefinitely, what we are talking about is resolving that case. That is the crux of what we are trying to do—to resolve the case, by those people either returning to the country of origin or getting status in this country. When we say that you are better off supporting them, we are thinking about the taxpayer. This is not saving money, it is simply diverting the cost to the local authority and building up costs down the line. The longer someone stays in the country without your engaging with them—if you make them destitute and they then disappear—the more difficult it is to remove them later on down the line. That is one of my concerns with the measure. It is not effective for immigration control, it is certainly not effective for child protection, and you are not resolving the case; you are simply abdicating responsibility. The Government should not be doing that.

The Chair: Before we move on, let me say that seven Members want to ask questions so perhaps the witnesses could try to keep their answers a little bit shorter.

Q14 Mrs Emma Lewell-Buck (South Shields) (Lab): I have a quick question for Judith, going back to something that you said earlier with regard to the Children Act. Obviously, you have to have valid reasons for removing children, but most children get removed because of neglect, and if a family is left destitute they cannot feed and clothe their child. So do you not envisage child protection departments removing children on that basis if support has been withdrawn?

Judith Dennis: It would not usually be the first step. A social worker will try to resolve the issues that arise out of the family’s situation, depending on the causes and the actors who are playing each part. We have seen, from their recourse to public funds, families who are supported by local authorities. Often social workers will engage with the family to try to help them to resolve their situation. We certainly would not expect social workers to be stepping in and taking people’s children away in the first instance.

Social work ethics mean that you have to resolve the situation and try to keep families together where possible. Most of the social workers we speak to would not feel comfortable about taking people’s children away on the basis that the Government have made the family destitute and forced them to neglect the needs of their children.

Q15 Mrs Lewell-Buck: I used to be a child protection social worker myself, so I totally get what you are saying, but social services departments are overstretched

[Mrs Lewell-Buck]

and are really sinking because the resources are not there. If they cannot fill the gap and help that family, that child will go hungry and will be neglected, and it is easier to pay for a child than to pay for the entire family, so could we see some perverse outcomes, with children being removed from their families? Is that a risk at all, do you think?

Judith Dennis: It could be, further down the line. I hope that it would not be. My understanding is that it is much more difficult and costly to take a child into care than to provide basic support such as the asylum support regime does, as has been mentioned before. The support is basic and is to avoid destitution. Taking the child into care means that you have to pay another carer to look after that child when the family are perfectly able to do so. The ethical argument and the economic argument mean that we hope we would not see that, but it is—

Mrs Lewell-Buck: There is a chance, down the line, that that could be the case. I just wanted to clear that up. Thank you.

Q16 Chloe Smith (Norwich North) (Con): Two quick questions from me. The first is on what happens at present to engage with these families. Mr Kaye, you were just saying that the longer we do not engage with them, the more there is a problem; yet, as I have just heard it, Ms Dennis, you were outlining the current process and saying that it was chock full of engagement. Will the panel comment on the ways in which current engagement is different from what happened under the 2005 process, which I understand hinged largely on corresponding with people rather than engaging with them, perhaps as happens at present?

Judith Dennis: The 2005 pilot took away support, or threatened people with taking away their support if they were not taking steps to remove themselves. Partly as a result of the lack of success of that programme, and of hearing from some families in parliamentary work done by various agencies about the complexity of the situation, this programme was established. There are several stages at which family conferences take place, and specialist family engagement managers who understand the process invite the families—parents and sometimes children—to meetings. They are invited to think about whether or not they want to go and they visit the family, and those kind of things. There are lots of steps. Most of the process is designed to help people think about voluntary return, because there are fewer barriers to removal if someone agrees to go rather than being forced to go. So measures that just take away support, rather than put in more support, have been found not to work, and those that put in more support have some more success.

Q17 Chloe Smith: I suppose in what you are saying there are two types of support, in the sense of money and of engagement, and just to be clear you are—

Judith Dennis: Indeed. I would say that they need to go hand in hand.

Mike Kaye: I just draw attention to the fact that—the point that I was making—if you cut off support, you cut off all that work, because you no longer engage with

that individual and they no longer engage with you. The other point that I would make is that under the Bill we are looking at—the Home Office is talking about—cutting off support to families after 28 days. That is an entirely insufficient amount of time to work with a family to get them to return home. In fact, under the voluntary return programme you would be looking at 90 days. This is for delegated powers, but it would be useful if we could get the Minister to indicate that the minimum would be 90 days.

Q18 Chloe Smith: My second question looks back somewhat. Mr Kaye's organisation, Still Human Still Here, in 2008 gave evidence to the Home Affairs Committee on the then draft citizenship and immigration legislative proposals. Your organisation stated:

“Government asylum support policy is leaving many refused asylum seekers destitute”—

that was clearly the then Government in 2008—and that that destitution

“results from the current statutory scheme”

of that Government. Why is it that two major British political parties, which most recently represented around two thirds of the UK population, would want to pursue such measures when they have been democratically elected?

Mike Kaye: Why would they want to—

Q19 Chloe Smith: Why do you think that the Government—either of those Governments—respond to the electorate's ask?

Mike Kaye: To be frank, it is a total mystery to me after 20 years how Governments can continue to do the same thing and expect a different outcome. Over 20 years Governments have basically been implementing policies that are short-term, deterrent policies, and they have not been resourcing the system to do the job properly. It is a huge frustration to me, because if Government really supported the Home Office to do the job properly, we would not be looking at a problem with asylum seekers. We have had a static number of asylum seekers for 10 years—25,000 applications—well within the realms of the Government's ability to deal with quickly and efficiently, but we have under-resourced the system so dramatically that we have not dealt with it effectively. The measures being put forward are a repeat of measures that have failed before. We have evidence from previous Governments, all democratically elected—I do not know why we are even talking about whether they are elected or not. They all try to do the same things and, if you look at the evidence, you will see that those things have not worked. That is what is so frustrating—to look at measures in the Bill that are replicating measures that have not worked previously.

Q20 Chloe Smith: But they are not, because the 2005 pilot was based on correspondence rather than engagement.

Mike Kaye: Talking about correspondence rather than engagement is not going to be the issue that changes whether this works or does not work.

John Wilkes: I have worked in this field for seven years now, and one of the observations that I would share is that the system has been in a state of constant churn over that seven years. Asylum is a very complicated

thing—it is one of the most complicated activities that the Home Office has to do under its responsibilities—and it has had perpetual change in all sorts of aspects of the system, and I mean major organisational changes. So the system has no time to settle down and to have a coherent overview of how these things are done. Doing a pilot in one area of the system when there are things that need to be addressed in other parts of the system means that you do not get the results you need. The system needs some time to settle down and to enable a much more focused approach on the whole system. In that way, you will start to achieve better results.

Mike Kaye: If you look back over the past 20 years—I totally agree with what John is saying—what you see is different Governments setting different targets. What you are generally doing is shifting very limited resources to meet a separate target, which just creates a backlog in a different aspect of the asylum system, and you have big structural changes, which are administratively inefficient, waste time and do not deliver the end goals that you are looking for. If we want to save money, to make the system work more efficiently and to have quicker and more accurate decisions, we need to resource the whole system properly.

Q21 Anne McLaughlin (Glasgow North East) (SNP): My question is specifically to John Wilkes. It is about the Scottish issue. Obviously, every country has different legislation. You have been through the changes in legislation coming from this House, so I hope that you will be able to advise us about the impact of this legislation, and the challenges that that presents, in terms of Scottish legislation.

John Wilkes: One of the things we said in our evidence was that the Committee should ensure that the Immigration Bill considers whether the legislative consent process needs to be undertaken with the Scottish Parliament under the Sewel convention, which is actually going to be put into statute under clause 2 of the Scotland Bill, which is currently going through the House. We say that because the whole concept behind legislative consent is that whatever this Parliament does should have no unintended consequences on the business of the other Parliament. There are a number of aspects of the Bill, particularly on asylum support, that we feel would have an impact, in the way colleagues have identified, on local authority responsibilities and on duties to children, which are framed in different legislation in Scotland. There is the Children (Scotland) Act 1995 and the Social Work (Scotland) Act 1968, which, in Scotland, defines local authorities' responsibilities in terms of a duty of care to people who have no other resources. We believe that one of the duties of this Bill Committee is to ensure that there are no unintended consequences. What the Home Office often says about immigration legislation is that the intention is around immigration. What Sewel also says is that you have to look at the impact of that legislation, and we think that the impact of this legislation potentially involves legislative consent considerations between the two Parliaments.

Q22 Simon Hoare (North Dorset) (Con): Mr Kaye, could I take you back to what I thought was the nub of your argument? You said—I think I heard you correctly—that as soon as financial support is removed, people lose contact. Can I put the other side of the coin to you? If somebody's application is finally refused, do they

not, against that backdrop, and irrespective of whether financial support is provided, run and hide, because they do not like the decision, and they do not want to leave the country? I am not persuaded that an element of financial support will, in any way, shape or form, encourage them to stay in a continuous dialogue with the Home Office and agencies while preparations for their removal are made.

Mike Kaye: Refused asylum seekers are not one homogeneous group; there are obviously lots of different people in different circumstances. Some people want to go home, and they take voluntary removal. That can take a long time; their Governments may not co-operate in providing them with documents. Others may be too sick to travel. Others should return home, but may abscond. You do not have to take my word for it; I am giving you evidence from studies that have been done. Where you have families that are supported, they generally do not abscond; they stay in touch with the authorities. If you cut off support, and you have refused asylum to a family or an individual, not only do they have no incentive to stay in touch but it will be very difficult for them to do so once they are destitute. It is the Home Office's own staff who are saying, "Keep them supported, because then we will know where they are. We can stay in touch with them and encourage them to return home."

Q23 Simon Hoare: With respect to officials, we only know where people are if they want us to know where they are.

Mike Kaye: Well, I—

The Chair: I am sorry. We could go on for an hour about this, but we are really up against the clock, and I have other Members to get in. I would just like the other two witnesses to say whether they agree with the statement that has just been made.

Judith Dennis: Yes. Look at the family returns process data, look at the process, look at the engagement, talk to the family engagement managers and explore how the family returns process works and what is necessary to keep it in place and the families involved.

John Wilkes: I support Judith's comments.

The Chair: Lovely. I think it is Paul Blomfield next—or did you have any more questions, Mr Hoare?

Q24 Simon Hoare: I did have a few more, if time allowed. I shall try to be brief.

These questions are to all three of you, and they probably need yes or no answers. While you are supporting or advising people going through the process, do you take them to end of the telescope they do not want to look from—that is, how will a decision whereby they are not allowed to remain be implemented? Do you do that in advance on a "just in case, let's keep all the bases squared" basis?

John Wilkes: Yes.

Judith Dennis: You need to keep faith in the system until they have had their final refusal.

Simon Hoare: So that is a no. Mr Kaye?

Mike Kaye: Yes, I think 40% of returns are voluntary. That is from Refugee Action, which is working with people to try to get them to go home.

Q25 Paul Blomfield (Sheffield Central) (Lab): I was in Stockholm last year on a cross-party delegation, where we were all impressed by the rate of compliance and returns under the Swedish system. I just wondered what lessons you all felt we could learn from other countries, particularly in relation to this issue of withdrawal of support, in terms of effective compliance, because that is something that we all share an interest in.

Judith Dennis: I do not know enough about the Swedish system, I am afraid. One of the things that worries me about the family returns process—

Paul Blomfield: Perhaps from other international comparisons.

Judith Dennis: One concern when families have come to the end of the asylum process is the lack of legal aid for their immigration cases. Somebody is not often either an asylum seeker or an immigrant; during their time here they may well be in both of those categories. Once their appeal rights are exhausted, they may need professional legal advice to help them pursue their case. There are families who go through the family returns process whose removal is not pursued because they are found to have a right to be there, so we need to remember that we do not always make the right decision first time.

Mike Kaye: The experience of other countries uniformly shows that you want a system that gets the decision right first time and has very little backlog, because that discourages unmeritorious claims. It also, conversely, ensures that you do not have backlogs where it becomes more difficult and, indeed, less reasonable to try to remove people, because the longer they are in the process, the more chance that they will have family obligations here; they have restarted their lives and they may actually have lived the majority of their lives here. If you want a system that works properly, it needs to be resourced to work quickly so that you get accurate and prompt decisions, and those decisions need to be implemented.

John Wilkes: The unintended consequence of backlogs is that when you get to address the backlog, what often happens is that the Home Office exercises its discretion and allows people to remain. The message that that sends to people further back in the system is that if you sit it out longer, you might get a better chance. We need to sort the system out to ensure that decisions are made right first time.

Q26 Paul Blomfield: Briefly, is there any evidence from other countries that withdrawal of support along the lines proposed in the Bill assists compliance?

Mike Kaye: I cannot speak for other countries, but in the UK we can go right back to 1996 and look at how we have tried to use the removal of support either to reduce applications to the country or to encourage returns, and none of those attempts has worked.

Q27 Byron Davies (Gower) (Con): Good morning. I have heard what you have said in answer to the questions about what is proposed in the Bill. You have given your objections to what is in the Bill, so can I ask you what you think is the way forward to effect behavioural change? What is your answer to it?

Mike Kaye: My answer—I have referred to this before—is that you need to resource the system properly so that you get quick, accurate decisions and you enforce them. That is not about spending more money, because it is a

spend-to-save policy. With each caseworker you employed, you would actually save money from resolving asylum cases earlier in the process. Once you reduce backlogs, you reduce incentives for people to make unmeritorious claims. You also ensure that you do not get, as John was saying, people who have been in the system for a long time whom you can no longer remove because they get other obligations to stay in this country. That reduces cost and makes the system work better, and it gives it credibility.

Byron Davies: Anyone else have a view on that?

Judith Dennis: It is important to understand that some cases are complex and some decisions will not be made right first time. You can do the majority right first time, but you need independent scrutiny and you need skilled caseworkers. There are some in the Home Office who are very good at picking up a case and seeing it through to its end, and that has not been incentivised in the past. Incentivising people to pick up a case and not to lose it until they have resolved it is needed. In addition, accept when somebody cannot be returned home, and give them leave.

The Chair: I cannot read the clock very well, so Gavin Newlands, very quickly.

Q28 Gavin Newlands (Paisley and Renfrewshire North) (SNP): I have two very quick questions. One is for Mr Wilkes, following on from my colleague's question. Do you think there is a danger that the Bill might contravene the Children (Scotland) Act 1995?

John Wilkes: I do think there is a risk of that. That is why I believe the Committee needs to scrutinise these things, and similarly for the provisions of the Children Act in England and Wales. I believe that is why you need to have a consideration of legislative consent, to ensure that those submissions are made about the potential impacts of that.

Q29 Gavin Newlands: Thank you. One explanation given for the failure of a 2005 pilot of terminating support was lack of faith in the asylum process. Is there any reason to believe that people have any more faith in that process now?

Judith Dennis: Among those people whose cases are dealt with by experienced and skilled caseworkers, probably. I was very impressed during a visit to one office where a family had a range of complex reasons for being here, including some of those alluded to earlier, and the caseworker took time to understand the complex problems and tried to resolve each one. We can have faith in those people. Unfortunately, it is not really an incentivised skill.

The Chair: Order. I am afraid the time has beaten us and I must bring this session to an end. I thank the witnesses so much for coming. You can see the interest of Members and I am sure we could have gone on for longer, but thank you for coming.

Examination of Witness

Professor Sir David Metcalf gave evidence.

10.16 am

Q30 The Chair: We will now hear evidence from the Migration Advisory Committee. For this session, we have until 10.45am. Will the witness please introduce himself?

Professor Metcalf: I am David Metcalf, emeritus professor at the London School of Economics. I and have been chair of the Migration Advisory Committee since it was established in 2007. The head of secretariat of MAC, Tim Harrison, is also here.

The Chair: I am grateful for that. I should warn you that this is the favourite session of the Minister because he gets to ask questions, rather than answer them. I have a horrible feeling he wants to start. Minister.

Q31 James Brokenshire: Perhaps I could open things up for the Committee by asking an open question. Sir David, what are your thoughts on the establishment of a labour market enforcement directive, the need for greater co-ordination on enforcement, and the impact that might have on the employment market overall?

Professor Metcalf: By the way, the Minister and I are appearing this afternoon as well, so we are seeing a lot of each other today.

In a nutshell, I think the proposals are terrific but let me elaborate. My background includes, as part of the Low Pay Commission, 10 years setting the minimum wage, so I know something about the minimum wage, compliance and enforcement issues.

On the Migration Advisory Committee, particularly when we have looked at less skilled immigration, on which we published a major report in 2014, we do not stay in London; we go on visits. We have seen a lot of exploitation, in some cases bordering on slavery. That in a sense confirms the view that I had when I worked on the minimum wage that we do not have sufficient resources to do the compliance and enforcement as effectively as one would wish. For example, when we went to Wisbech in connection with the low skills report, we came across some excellent examples of joined-up government, with different agencies working together. That got us thinking that we have these very good bodies but are they working sufficiently harmoniously? In our report, we said in no uncertain terms that there were insufficient resources devoted to enforcement and that the fines and probability of prosecution were basically trivial—I do not think we used that word, but I will use it now.

In a sense, many of the employers where the gangmasters operate have no real incentives to abide by minimum standards or the minimum wage. We have a flexible labour market—I think this is a good thing because it helps our productivity and with jobs and so on, although that is a matter of debate—but we are not enforcing the minimum standards.

I think the three main proposals in the BIS-Home Office document will go a long way towards assuaging the concerns that we set out. I know that some of my other academic friends who have thought about this—possibly more than me—share that view. Just as an aside, the consultation document on labour market enforcement is excellent and I am sure that the Committee will recognise the co-operation between the Home Office and BIS. Sometimes there is tension between the Departments, but on this occasion they have produced an absolutely marvellous document.

First, you have a director of enforcement and he or she will, in a sense, set out strategy, report and be the pivotal person in an intelligence hub. They will mainly be dealing with the minimum wage with HMRC, the

Gangmasters Licensing Authority and the employment agency standards inspectorate. They are the three bodies that he or she will have to engage with initially and set the strategy out for and think carefully about resource allocation.

The second proposal is a new offence of aggravated enforcement, which is in a sense between the rather minor infractions—I do not want to call them less serious—of the minimum wage rules and those that are very serious, almost slavery. Right now, we have not got anything that sits in the middle and the proposal is essentially to have one that sits in the middle. In the extreme, that might attract a two-year custodial sentence, so it is pretty serious.

The third proposal is that the Gangmasters Licensing Authority can spread out—not so much in its licensing role, but it does have considerable expertise in horticulture and agriculture and the proposal is that it could check in particular on aggravated enforcement in other sectors, such as construction, hospitality and so on. When I was an academic in this area, I wrote that there was a lack of enforcement. I have been involved with both the minimum wage and immigration in particular on the low-skilled end, and I think the proposals are really excellent.

Q32 Craig Whittaker: For laymen like me, are you saying that the new role of the director of labour market enforcement is a good idea?

Professor Metcalf: A very good idea indeed, yes.

Q33 Craig Whittaker: Okay. Do you think the director will provide the focus necessary to bridge the gap you say exists between the current labour market offences? You also mentioned lack of resources throughout your answer. Do you think that the Bill will bridge that gap, too?

Professor Metcalf: That is a tricky one. Successive Governments have indeed put in a bit more resources—for example, for HMRC to enforce the minimum wage—although quite whether they are sufficient is an open question. It depends on how the director works, but on the idea of them thinking through the resources required for the three different bodies, and perhaps in future health and safety, for example, and possibly bringing local authorities in as well—strategy is an overused word, but in this case it really is a strategic role. Thinking through quite what the strategy should be will go a long way towards, in your words, filling the gap with the resources. Frankly, the inspections are very resource-intensive, and I suspect we just do not have the public finances for sufficient enforcement.

As an aside, that also takes you into a point that I made in my one paragraph to you: we need to think about punishments as well.

Q34 Craig Whittaker: In your 2014 report, “Migrants in low-skilled work”, which we have quoted several times, you talk about countries that use the International Labour Organisation labour inspection convention 81 of 1947, which seemed to be particularly effective. Will this new director bring us much closer to that working model?

Professor Metcalf: If I may say so, that is a really good question, because in some senses, what we were feeling our way towards in the “low-skilled” report was

the notion of having an overall labour market inspectorate, which that ILO convention is about. What happened was the Prime Minister took up the issue of enforcement in the speech immediately after the election and set up an immigration taskforce, but on the immigration taskforce, you have different Departments who have different interests—the Treasury, with HMRC, and now the Home Office, with the Gangmasters Licensing Authority, and so on. I think it is quite understandable that the immigration taskforce—the ministerial taskforce—and probably, the Cabinet Office and so on, did not want to disrupt the machinery of Government completely and start with a blank sheet of paper and set up a new labour market inspectorate. They wanted people to get on with the job but have much more joined-up thinking and overall strategy.

We are where we are, and it may well have been that we would almost have had no labour market enforcement for the two years while we were trying to set the inspectorate up. It would be very difficult. Some of the people are not civil servants and some are, and they are located all over the place. Sticking with what we have got and trying to approach it in probably an incremental way is actually very sensible.

Q35 Sarah Champion (Rotherham) (Lab): Mr Bone, it is a pleasure to serve under your chairmanship. I have a couple of questions. I am a big fan of the anti-slavery commissioner. I think that in six months, he has had a big impact, precisely because he is independent and has a remit that goes across different Departments and organisations. You said that it was key that the post of director is able to work harmoniously with other Departments, but you mentioned the Health and Safety Executive and local authorities, and a lack of clarity about what the relationship would be. Do you think that ought to be fleshed out on the face of the Bill for this post to have the maximum impact?

Professor Metcalf: No, I do not think so at this stage. Doing it incrementally is really a rather good idea. The main enforcement people currently are the three in the Bill—the employment agencies, the Gangmasters Licensing Authority, and HMRC, with the minimum wage. In a sense, the new director, whoever he or she is, will have a major task to get those agencies to work in a bit more of a joined-up way. There may well be a case in the future for trying to bring in, under the same strategic role, health and safety, local authorities and on occasions, possibly the Department for Work and Pensions as well, which deal with national insurance, for example. For me, it is a major task to do what is being done, and I do not think that at this stage, it is necessary to do that, but it is possible that we might even think, three or four years down the line, when we have seen how it works, “This is three quarters of the way to a fully-fledged labour market inspectorate. Perhaps we could transform it into a labour market inspectorate and bring the other bodies in as well.” But I think this is very good—it is not a halfway house; it is a three-quarter-way house.

Q36 Sarah Champion: You also mentioned the need for sufficient resources. Do you believe that, as things stand, the director does have sufficient resources to prevent worker exploitation?

Professor Metcalf: Probably not, but in the consultation document and, I think, in the Bill, it does not actually set out quite what the resources are.

Q37 Sarah Champion: What do you think they should be?

Professor Metcalf: I think that successive Governments have put more resources in—certainly into HMRC, but less so with the Gangmasters Licensing Authority. One understands the difficulties with the public finances, but we probably do not have sufficient resources. In the low-skilled report, we calculated that you would get an inspection from HMRC once every 250 years and you would get a prosecution once in a million years. That suggests that we do not have enough resources. In turn, that takes you to the potential trade-off between the resources and the punishments. If you do not have sufficient resources, you may need to ensure that the punishments—certainly on occasion—are properly implemented. That is why I am in favour of the new offence of aggravated exploitation, which, in the extreme, carries a two-year jail sentence.

Q38 Sarah Champion: Your hope was that the director would be able to set established minimum standards with employers. However, in parts of the Bill, the criminal aspect has shifted from the employer to the employee. What impact do you think that is likely to have?

Professor Metcalf: You mean on illegal working? I try, as chair of the Migration Advisory Committee, to stick to my knitting and do what we have done. Frankly, I have not thought about that very much. It is a matter for you, as the Committee, and for other people to decide what they think about illegal working.

Your point about employers is really important. I hope that the CBI, which is an excellent organisation—I know from my time on the Low Pay Commission how important the CBI was in ensuring that the minimum wage worked properly—buys into this. Occasionally, the CBI is rather hostile to regulation. In a sense, that rather surprises me, because the regulation that has been proposed here will help its members. It takes away the cowboys, as it were, and the people who do the undercutting. Therefore, your point about the effect on employers is very important. I hope that the CBI buys into this.

Q39 Rebecca Harris (Castle Point) (Con): What impact more generally do you feel illegal or poorly regulated workers’ protections have on the domestic, legal workforce?

Professor Metcalf: We went into that in some detail in the low-skilled report last year. It is interesting. When we went out to Wisbech and Peterborough and so on, the concerns were about the exploitation of the migrants. However, the people we spoke to were well seized of the consequences for British workers: possibly some displacement, although lots of times they would not actually want to do the jobs; and, for certain, downward pressure on the wages at the bottom end of the labour market. By properly regulating this aspect of the labour market—including immigrants and the British workforce—this will go a long way towards raising the welfare of British residents. I would have thought that this is something that we should all welcome. Our report was about immigrants, but it went into what the issue was doing to British residents. We did find evidence that it was undercutting wages. The measures will be very important to stop that.

Q40 Keir Starmer: You described, in your evidence, the current regime as trivial in the sense of the likelihood of an intervention or a prosecution. You gave the figures of an intervention once every 250 years and a prosecution once every million years. We welcome, therefore, the director of labour market enforcement, because that provides an opportunity to bring a degree of oversight and strategic thinking. Obviously, reporting to the Home Office and to the Department for Business, Innovation and Skills is a welcome step in the right direction.

I know you have been tasked on resources a number of times. You clearly accepted that, the public finances being what they are, there may not be much by way of resources and suggested that increasing the sanction might do the same work. Is it not the reality that, with that level of intervention and prosecution, unless significant resources are put into the relevant agencies, the prospects of this raising beyond trivial to very much further up the scale are pretty limited? You can only do so much with the sentence, unless you are going to go way off the scale.

Professor Metcalf: Of course, I am exaggerating when I say once every 250 years for a visit. Of course, they will do it based on risk.

Q41 Keir Starmer: It is targeted and intelligence-led.

Professor Metcalf: Yes. The director being the centrepiece of the intelligence hub will certainly help to ensure that the resources that are initially available to the three agencies will be used in a sensible and, I assume, most effective way. I am with you, Mr Starmer. I wish that more resources were devoted. I am not quite sure how much, but one of the roles of the new director will be to put pressure on the different arms of Government to provide more resources for this. I do not know at this stage how much more is needed to be able to increase the number of visits and inspections, albeit on the basis of risk.

Q42 Keir Starmer: Ultimately, the pressure will have to be on the Government, because the agencies are likely to say, “We allocate our resources. We are happy to go along with the strategy but, ultimately, those are the resources we have. Therefore, we simply can’t up the number of inspections, and so on, in the way that might be strategically most advantageous.”

Professor Metcalf: Absolutely. The pressure will come via the director on to the different Ministries of Government and, ultimately, the Treasury.

Q43 Keir Starmer: In headline terms, what do you see as the gaps? This is to co-ordinate a number of agencies, which is a good thing. What gaps are still being left?

Professor Metcalf: We need to consider where DWP, the local authorities and the Health and Safety Executive fit into the picture. They are the other main agencies and, for quite understandable reasons, they have not been included at this stage. We need to consider that.

As I have mentioned, given that we all know that we do not have the resources for enforcement, in the background we should be thinking about the penalties. If you think about the minimum wage, for example, although the penalties on the statute book are possibly large, employers are being fined only about £1,000 on average when HMRC takes them to court. These penalties do not seem to be sufficient to encourage firms that are behaving badly to obey the law.

Q44 Simon Hoare: Given what you have just said about the importance of having the director, and taking on board the resource issue, where would you be expecting him or her to be focusing their energies in the first instance? Which sectors of the economy are most exposed to workers being exploited?

Professor Metcalf: That is an interesting and difficult question.

Simon Hoare: I know. That is why I asked it.

Professor Metcalf: There is good behaviour and bad behaviour in most sectors, but we know that hospitality is an area that is very much at risk. A lot of that is ethnic on ethnic. It is Chinese on Chinese, as it were, and Bangladeshi on Bangladeshi—I know that from the minimum wage. The big fiddles are on the hours of work—they grossly understate the hours of work to HMRC to make it look as if they are paying the minimum wage when they are not. Construction is quite a fruitful area. The reconstituted GLA will probably focus on those two sectors. In a sense, that is why I think having the director as the pivotal person for the intelligence—all those agencies know a lot about the sectors they have to get into—will help a lot. But my initial inclination would be to say construction and hospitality.

Q45 Anne McLaughlin: Is a worker who does not have the right to work in this country—for example, a parent who is made destitute by this legislation—and who is being ruthlessly exploited, or physically or sexually abused, more or less likely to seek protection as a result of these provisions?

Professor Metcalf: I do not know all the details of the legislation, other than what I am talking about in terms of enforcement. I would hope that the director makes the enforcement issue more central to the labour market. If we enforce the minimum standards, a person in those circumstances would be more aware of the possibilities—often, particularly if they are migrants, they are not aware of them—and also more likely to go public. I would have thought that that would be quite a major component of the new director’s work. That basically follows up the question from earlier, because if you can stop the exploitation of the migrants, it is also helpful to British residents.

Q46 Paul Blomfield: Sir David, I imagine that you would agree that labour market exploitation takes place where gangmasters and those exploiting people can create a climate of fear and intimidation. You will be aware that in the States, for example, there is a clear protocol between the Department of Labour and the Department of Homeland Security on firewalls between immigration control and labour market enforcement, to ensure the effectiveness of labour market enforcement and to create a climate in which people can properly express concerns. Is it important that we have such a firewall in the UK?

Professor Metcalf: I have never thought about that. I would need to ponder that a little. In some senses, when we went out in Wisbech, for example, we thought that having a Home Office official and somebody from the Department for Work and Pensions doing national insurance, as well as some people from the local authority

and a community policeman from Latvia who spoke Latvian—the issue was about Latvians—made for a very strong enforcement team. So I am not sure, on the ground, when you do major inspections like this, that the firewall would be completely helpful, but I have not thought through the issue. I understand what you are saying in terms of the machinery of Government, but I can see that, on the ground, it would actually be quite helpful to have the different bodies.

Q47 Paul Blomfield: Are you not concerned that those who are being exploited might be less willing to talk about their exploitation if they felt that that threatened their immigration status?

Professor Metcalf: No. I think that that would be the case. I mean, by and large, when we were dealing with this, we were dealing with A8 countries. But in terms of threatening immigration status, we do not want people to be exploited, but if their immigration status is that they should not be here, well, they should not be here.

The Chair: Time is again catching us out, so I think this will be the last question. Mims Davies.

Q48 Mims Davies (Eastleigh) (Con): You mentioned the construction and hospitality industries, in particular, as areas of illegal working—

Professor Metcalf: No, I did not say “illegal”.

Mims Davies: Sorry if I misunderstood that—areas where there might be more exploitation. I am just wondering about the causes. Is that about a skills gap, or is it just pure exploitation?

Professor Metcalf: A lot of it is because those sectors have very low levels of unionisation, for example. Unions have costs and benefits, but one of the things they do is to try to enforce proper minimum standards. A lot of the work in construction is done on projects; in hospitality, there are so many workplaces that is possible for the employer to be almost never on the radar. There is a combination of reasons why those sectors are prone to commit exploitation and, to use your word, to do things that are basically illegal, certainly in terms of the minimum wage. If you were to go into Chinatown and check the immigration status of the people there and the way in which wages and hours are calculated on their payslips—to the extent that any of them have payslips—you would find huge possibilities for enforcement.

The Chair: I am afraid that that brings us to the end of the time allocated for the Committee to ask questions. Thank you, Sir David. You have been an excellent witness.

Examination of Witnesses

Kevin Green, John Miley and Caroline Robinson gave evidence.

10.46 am

Q49 The Chair: We will now hear oral evidence from the Recruitment and Employment Confederation, the National Association of Licensing and Enforcement Officers, and Focus on Labour Exploitation. For this session, we only have until 11.25 am. I warn the witnesses

not to be surprised if the Minister asks questions, because he is allowed to do that in this session. Will the witnesses please introduce themselves?

Kevin Green: I am Kevin Green, chief executive of the Recruitment and Employment Confederation.

Caroline Robinson: Caroline Robinson, director of policy at Focus on Labour Exploitation.

John Miley: John Miley, the national chair of the National Association of Licensing and Enforcement Officers and also licensing manager at Broxtowe Borough Council in Nottinghamshire.

Q50 Keir Starmer: May I begin with the illegal working offences in the Bill, in particular the extension of an offence to employees as well as employers, and ask the panel how they think that will impact on the power relationship between an exploiting employer and exploited employees? Secondly, do the panel think it will have any impact on the confidence of employees to come forward? If criminal cases are to be brought, it is very important that those affected come forward and give an account, and possibly give evidence. Thirdly, do the panel think that there is any evidence that the employee offence is needed, given the other offences that are already in existence? Caroline Robinson, I think you particularly expressed some views on this.

Caroline Robinson: At FLEX, we think that the offence of illegal working is extremely dangerous, for three reasons. They relate to modern slavery, in particular, which is a key focus for our organisation and a major focus of this Government, who have set out to be a world leader in tackling modern slavery.

First, we think that people will be fearful of coming forward to be referred into the UK national referral mechanism as victims of trafficking. Only last week, we were working with a victim of trafficking who is currently in a situation of trafficking in the cleaning sector, but who has an undocumented status and is very fearful of coming into the national referral mechanism. The NRM provides 45 days’ support for victims of trafficking and a potential positive conclusive grounds decision that that person has been trafficked. If, however, they are unlucky and not found to be a victim of trafficking, for whatever reason—people are extremely fearful of that—now, under this offence, they might face 51 weeks in prison. That is the first reason.

The second reason is that we know that traffickers use the threat of deportation, removal and reporting to immigration officials in order to abuse and exploit workers. We are extremely worried about this offence, which you stated yourself is an addition to existing offences that people who have overstayed or entered the country undocumented would already face penalties for under the Immigration and Asylum Act. This offence, which serves a public relations function in terms of intensifying the hostility towards migrants, will be used by exploiters to intensify that hostility, to ensure that people remain in situations of exploitation and to threaten people with removal. We heard about a situation in the fishing industry recently in which a man was being abused and was living in extremely dangerous conditions. When he asked to have better conditions and living standards, the skipper called the Home Office, took him to port and reported him for removal. The conditions that people are living in and under which people are exploited are very much related to their immigration fears.

The third reason is something that was raised a lot on Second Reading, namely the criminalisation of trafficked persons. Although the Home Secretary set out the statutory defence, which is in the Modern Slavery Act 2015, it is quite narrow in its terms. The schedules exclude a number of offences for the victims of trafficking, such as aggravated criminal damage, but if I was to leave the building in which I was held I would no longer be covered by the statutory defence in the Modern Slavery Act.

We also know that people are in different types of situation in the UK. I was interviewing trafficked persons on Friday, and a woman I spoke to, who was in the national referral mechanism, was exploited when she first came to the UK. She then managed to escape that exploitative situation on her own, and entered into various undocumented working relationships. What would the situation be in relation to her? What would it be in relation to someone who was in an undocumented working relationship when they first entered the UK and was then exploited? How does this relate? We have a number of questions in relation to that and are deeply concerned. Given that, as you said, there are offences that relate to undocumented workers already, we think the measures are entirely unnecessary and very dangerous.

The Chair: Rebecca Harris wants to come in on that point.

Q51 Rebecca Harris: We know migrants are quite knowledgeable—they are good about communication and about the details—so do you think that the knowledge that working in Britain would be illegal and a criminal offence might deter people and make it less likely that they would allow themselves to be trafficked in the first place? With that knowledge, they are less likely to come to this country.

Caroline Robinson: The question of whether migrants are knowledgeable about the different offence structures in the UK is an interesting one. I think a lot of myths circulate. There is a perception of marginalisation and that people are not on a par with British citizens in terms of rights. As for individual offences, and the fact that this offence is 51 weeks but the offence under the Immigration and Asylum Act is six months, I do not think that people are aware of that distinction. When you talk about imprisonment versus removal, there is certainly a fear of imprisonment among the trafficked persons that I talk to, and a real fear of officials. However, in terms of the level of detail, and this extra detail when going to countries outside the EEA area, and how that would have an impact, I think there is a distinction—

Q52 Rebecca Harris: You do not think that it might make people less vulnerable to being trafficked if they knew in advance that this was the legal situation in Britain?

Caroline Robinson: I have been working on the field of human trafficking for 11 years now. At international policy forums, the first thing that Governments are prepared to do is put money into awareness raising and huge prevention campaigns. This Government put £2 million into a widespread awareness campaign about the modern slavery hotline, which was great, and about modern slavery. A lot of effort goes into awareness raising about the threats and the dangers that people face, yet they still come.

Q53 The Chair: For clarity for the Committee, will the witness define what she means by trafficking? I thought trafficking meant people who were not aware and were tricked. What is your understanding of trafficking?

Caroline Robinson: Trafficking as defined in the UN human trafficking protocol involves the act, the means and the purpose, the act being to recruit, transfer or move someone into a situation, the means being to coerce, threaten or deceive and the purpose being exploitation of various forms. The act also includes harbouring, which is the retention of someone in a situation, so we and many eminent international legal scholars understand trafficking to mean when someone is held—through coercion, threat, deception—in a situation of exploitation. For our intents, and for many Governments, although not the English Government, trafficking is not a question of movement but of holding someone in that situation, and therefore trafficking could be a situation, as described on Channel 4 news last night, of Romanian workers held in an apple packing factory through threat, coercion and exploitation—not moved into the UK, but held in a harbouring situation, as set out in the UN human trafficking protocol.

The Chair: That is very helpful. Rebecca Harris, did you have anything more to say on this?

Rebecca Harris: No.

The Chair: We will go back to Keir Starmer, but I would like to hear from the other two witnesses as well.

Q54 Keir Starmer: Can I go to the flipside of enforcement and look at protection? The role of the director of labour market enforcement has been widely welcomed, and rightly so. Most discussion so far has been about enforcement. Do the witnesses have views on the protective role of the director and whether the remit is wide enough?

Kevin Green: We certainly welcome the role. We think it will add value in terms of the whole data gathering co-ordination across Government. In terms of its role in protecting vulnerable adults, that is dependent on the resource and the way that it actually functions in reality. For us, extending the remit of the GLA in terms of it being able to investigate exploitation is important. That is welcome. I know that that is part of the consultation. Again, going to the last point, you have to be very careful about any kind of regulation for the victims of these offences, because a lot of the stuff that we see is criminal activity. A lot of legitimate businesses and recruitment agencies are infiltrated. Often, it is dependent on an individual worker being quite brave—being a whistleblower and flagging this up so that authority can be brought in. We need to be very careful that we do not demonise the people who are in vulnerable positions.

We welcome the development. We think it will move things forward. The level of protection is much more about the level of resource available across the breadth of activity that it will cover.

Caroline Robinson: I share that view about protection being linked to resources. We advocated strongly during the Modern Slavery Bill's progress through Parliament for expanded remit and resources for the Gangmasters Licensing Authority and for an overarching labour market focus on inspection and enforcement. We welcomed

the Prime Minister's announcement on 21 May, and the measures in the Immigration Bill go some way to address that.

The point about the protective purpose of the director is very important. For us, the core purpose of that role should be the protection of vulnerable workers and the prevention of exploitation. That has been at the centre of the work of the Gangmasters Licensing Authority and has been part of its success. That authority, as we know, operates on a limited budget, so the resources are also of critical importance. On the role of the director of labour market enforcement and the labour market enforcement strategy, what most concerns us is the power of the director to hold control of the budgets, governance of those labour inspectorates and shifting budgets according to the strategy.

We know that the Gangmasters Licensing Authority is extremely stretched in its current remit and has done a great deal to ensure a level playing field in those core sectors in which it operates. If it is to be shifted into other sectors, we believe that the good work it has done in the existing sectors is under grave threat. This overarching role is a good thing, but it requires extra resources if any changes are to be made, and it definitely needs to have, as the core purpose of that role, the protection of workers and the prevention of exploitation.

John Miley: The ability of the agency to get involved in enforcement workers' licensing is welcome. It will cut corners—that is not the right phrase. It will remove barriers for them in respect of enforcement. Currently they have to await police action for the licensing authority to attend. To be able to be a responsible authority—to be a responsible body under the Licensing Act 2003—will certainly improve that status for them.

Q55 Craig Whittaker: Caroline, I want to come back to you and the answer you gave to my colleague earlier. You said that you were not sure that illegal immigrants are aware of the rules and regulations around countries. Most people in the UK know that when you go abroad there is a huge perception in the wide world that Britain is a light touch.

I grew up in Australia and the children of a lot of my friends I grew up with have come to the UK and know full well that they can overstay their visas without too much hassle. We have 100,000 students who overstay their visa requirements. There are also the heritage cases we know about, and the traditional open-door policy. How can you say that you are not sure whether somebody coming to this country with the intention of being an illegal immigrant is not aware of the rules and regulations?

Caroline Robinson: I was talking about specific rules and regulations and whether the distinction between six months and 51 weeks would be transferred to someone in a village in Nigeria, for example. I am not sure that I agree about the light touch. Your case about Australia is interesting. I once arrived in India without a visa and the Indian officials allowed me to leave my passport at the airport and spend my time in India, and then to return and leave.

Q56 Craig Whittaker: We are not talking about India, we are talking about the United Kingdom and what has traditionally happened in this country. The general

perception, throughout the world, not just Australia, is that we have traditionally been a light touch. That is among people who come and go just for holiday visas, for example. If you intend to come here as an illegal immigrant, surely you will have the knowledge that you can get away with far more than people who do not intend to do that in the first place.

Caroline Robinson: What I was suggesting was that it is quite a different situation for people from different countries. If you are on a holiday visa and are Australian and overstay, potentially that is a little bit different from arriving here from a country such as Nigeria and overstaying. The situation and the response might be different. That is part of what I was suggesting.

Q57 Craig Whittaker: You do not think that the UK has been a light touch, then.

Caroline Robinson: We have had a raft of immigration legislation over many years, with controls and responses. I am not sure whether that means that people think the more immigration legislation that we have, the more of a light touch people perceive us to be. Then perhaps there is a problem with the legislation, I do not know.

Q58 Sarah Champion: Leading on from Mr Whittaker's question, do any of the panel believe that clause 8, the offence of illegal working, will have any impact on people illegally coming to this country?

John Miley: I am not sure. In terms of licensing, I am not sure there would be any particular effect at all, I have to say. I am not sure that there is a major problem in licensed premises; maybe more so in late-night takeaways and off-licences. I do not perceive that to affect it at all.

Q59 Sarah Champion: Does anyone on the panel think that clause 8 will prevent illegal workers coming into the country?

Caroline Robinson: What we think will prevent people from working here undocumented is to reduce the demand for undocumented workers. To do that, we require enforcement of labour standards across the board. To be clear, the demand for undocumented workers is not because employers prefer undocumented over documented workers; it is because they cannot pay documented workers below minimum wage as easily as they can undocumented workers. They still try, and as I mentioned, Channel 4's investigation last night showed Romanian workers being paid below minimum wage and being treated in substandard conditions, because they were under the perception that they were not entitled to the same rights as British citizens.

We know that 78% of those exploited for their labour are, in fact, documented in the UK. So the reduction in demand for undocumented labour through the enforcement of labour standards by this director of labour market enforcement is welcome, but to do that we need a labour inspectorate that is level with other labour inspectorates across the EU. To have just 0.8 inspectors per 100,000 workers at the moment leaves us quite open to abuse. We just heard from the Migration Advisory Committee, which said in its report last year on low-skilled migration that there is just one inspection by the HMRC national minimum wage inspectorate per 250 years for employers.

The frequency of inspections is certainly an incentive for employers to employ undocumented workers, as the fear of being caught is low.

Q60 Sarah Champion: My personal feeling is that clause 8 is a show pony for the *Daily Mail*. It will not actually make any difference to people coming into the country to work illegally. However, what is your opinion of clause 9? Do you think that it goes far enough to put the onus on employers to not employ people illegally and not exploit workers?

Kevin Green: I gave evidence to the Modern Slavery Bill Committee when that legislation was going through. One thing that is quite important is that large businesses manage their supply chains effectively and are held to account. We recognise that there was some movement towards that in the legislation, and the anti-slavery commissioner clearly has a remit to look at that. We do not think that that has gone far enough. We think that large employers, such as supermarkets, need to be very aware of what is happening throughout their supply chain and should be held to account. That is much more likely to deliver results, along with strong enforcement, than creating more legislation and regulation that is not enforced.

Q61 Sarah Champion: Specifically, previous witnesses have spoken about takeaways and the construction industry, which would be small employers. Does clause 9 go far enough to prevent that exploitation?

Kevin Green: It is helpful, but I am not sure that it goes far enough. Think about how the supply chain works for the construction industry, with multiple small organisations working into a large developer. Hold the large developer to account, make them accountable for what activity happens in their supply chain, and I think you will drive out a lot of the bad practice that we are hearing about.

Q62 Sarah Champion: Mr Miley, as a licensing officer, does this give you enough to go on to stop illegal practice, or would you like to see more in there?

John Miley: I think it helps. I am quite keen to ensure that the licensing authorities are not given some sort of role in this in respect of being responsible. If we are making checks on certain documentation, I do not want us to be part of the problem. If something happens and we miss a check, we do not want to be responsible for it. It is important that owners and employers are responsible. It certainly gives the enforcement agencies the opportunity to take proper action against them.

Q63 Byron Davies: Caroline, you mentioned the extent of harbouring. You talked about the Romanian case on Channel 4. What is the extent of this, and what is the evidence?

Caroline Robinson: Of people being harboured in situations of exploitation?

Byron Davies: Yes.

Caroline Robinson: The evidence from the National Crime Agency statistics shows the range and scale of the exploitation referred into the national referral mechanism. The scientific adviser's report to the Home

Office was published last year, and estimated that there are 13,000 victims of modern slavery in the UK. If we go by the NRM stats, one third of those would be victims of labour exploitation—about 4,300 victims of labour exploitation in the UK. Those are the statistics.

Q64 Byron Davies: What would your definition of harbouring be, out of interest?

Caroline Robinson: Harbouring was placed on the UN human trafficking protocol by the Americans at the time of the travaux préparatoires to the protocol. It was based on the definition of harbouring in US domestic law, which is about retaining individuals in a situation—keeping people in a situation and harbouring in the same situation.

Q65 Paul Blomfield: I am keen to ensure that we learn from other countries, and I am interested to know what the panel thinks we can learn from them about effective labour market enforcement. In particular, I am interested in the line of questioning that I was pursuing earlier, which was about the relationship between immigration officers and labour market enforcement regimes. For example, in the States there are clear firewalls, which the Americans think enhance effective labour market enforcement.

John Miley: I have no view on that, I am afraid.

Caroline Robinson: FLEX has just conducted a review of other countries' labour inspection frameworks, and we have also been looking at research; we have been conducting research as part of a pan-European project on improved identification of victims of modern slavery. That research in particular showed an interesting finding in the Netherlands, which we had previously held up as a great example of labour inspection; it has a very large labour inspectorate and has conducted work in this area in the past. However, the victims of trafficking we spoke to there said that the confused mandate of the SZW inspectorate caused problems on the ground, so that they were unwilling to come forward. That is because the inspectorate serves two functions: one, to identify undocumented workers; and, two, to identify exploitation.

The concern in our research then was that the people we had spoken to had not come forward to be identified by inspectors at the time of inspection, because of the overlap they saw between the inspectorate and the aliens police, which often conduct joint investigations; and the inspectorate has an overlapping mandate.

We are also concerned that where this overlapping mandate exists, it is quite hard to look for two things at the same time. We have our own example of that in the UK. We have the case *R v. Khan, Khan and Khan*, from 2010, about nine men who were held in in a restaurant by the Khan family in a situation of trafficking for labour exploitation. Those men were there for four years in situations of exploitation before they were discovered and before those perpetrators were convicted of trafficking. During that time, the judge's report from the court said, there were regular inspections by Home Office officials. So the documents were in order, but the labour exploitation was not; those people were being held and trafficked for labour exploitation, yet regular Home Office inspections identified nothing. Eventually, they were able to seek help from family members or friends to leave that situation.

Kevin Green: Our take on it is that we are part of a global organisation of recruitment businesses called Staffing Industry Analysts. We recognise the need for strong labour enforcement, and there are lots of examples of where it works well.

One area that we would certainly flag up, and where we need to be careful, is in putting too much of an onus on business to address this issue through some kind of licensing regime. We have looked internationally and we cannot find any example of where we think this adds a huge amount of value. We think that a lot of this activity is about criminal activity, where people are trafficked and in forced labour.

We are very clear that the role is, first, to hold large organisations to account, as I have already talked about, through supply chain management, and, secondly, to have a strong inspectorate, which has the resources to investigate and bring people to bear, rather than creating a huge bureaucracy for a lot of legitimate businesses, where there is more responsibility to produce evidence, and which would add cost and complexity to legitimate businesses. What we are really doing here is trying to find the people who are undertaking this activity of forced labour and human trafficking.

The Chair: I am aware that time is getting on, and I also have quite a few Members who still want to ask questions. Undoubtedly, we could talk for a long time about the trafficking issue, but we will move on.

Minister, would you like to ask a question?

Q66 James Brokenshire: I want to ask Mr Miley, who has expertise and experience in licensing, how he thinks the powers contemplated in the Bill could strengthen existing enforcement around standards in the licensing process, and who should be holding licences. Also, I would like to know about his experience of using closure notices, and some of those short-term measures that are currently reflected in licensing legislation and are now being contemplated in a broader sphere.

John Miley: To answer the last question first, my authority has had no particular experience of using a closure notice. We have come close to it, but we tend to try to negotiate issues out before such things has happen. It is good that the proposals reflect the current practices under the Licensing Act 2003, which will make life a lot easier for licensing authorities to utilise the situation. There is the potential for reviews of a premise's licence if a closure notice is actually turned into a closure order, which would be quite useful.

As for general enforcement, it is difficult to quantify the real issues relating to illegal working in licensed premises. As I said before, there is the possibility that that happens in late-night refreshment houses. In ordinary licensed premises, such as public houses and restaurants, that does not tend to be the case. It also seems that the national fraud initiative has not discovered much in the way of that in the past year. It has found more in the taxi trade, which I understand will be dealt with later in an amendment to the Bill.

The Bill will give the immigration agency the ability to undertake risk-based inspections and actions without needing to get the police involved, which happens currently. I am unsure whether it will improve standards. I suspect that if people can get away with it, they will continue until they are caught. An example then needs to be made and the employer needs to be properly castigated.

Q67 James Brokenshire: Do you have any comments on intelligence sharing and joint working with other agencies to support the work of local authorities?

John Miley: It is to be commended. Generally speaking, licensing authorities do not work in silos. They work in the broader scheme of things, and work with the police and the Security Industry Authority and more generally with immigration. Good work is currently going on in quite a lot of cases. We do an awful lot of partnership working. In fact, it is one of the cornerstones of the licensing procedures that we consult and gather information among ourselves. In Nottinghamshire, all the responsible authorities meet every six weeks. That will include the immigration authority when the Bill is passed. It is a useful evidence and information gathering and sharing process.

Q68 Kelly Tolhurst (Rochester and Strood) (Con): I want to explore a little more around employers who are repeat offenders. I have witnessed examples of activity from smaller businesses that have caused concern. Does clause 9 go far enough to prevent such businesses, once caught, from doing it again? Is it enough to stop people who have already caused concern for agencies?

John Miley: In terms of licensing, if enforcement action is taken and it goes to its full conclusion, there is the possibility of closing the premises down. That is quite a strong penalty, so it would potentially have the effect of stopping it.

Kevin Green: Certainly, in terms of the recruitment industry, the conduct regulations and the enforcement in BIS are pretty clear. If people are found guilty, they can be struck off or prosecuted. We actually see few examples of repeat offences.

Q69 Kelly Tolhurst: I have been made aware that fines sometimes—

Kevin Green: In relation to what example? I am not quite sure what we are talking about.

Q70 Kelly Tolhurst: Undocumented workers. It has not always reached a full conclusion, so there has perhaps been a view that the penalties are not stiff enough. That is why I am interested to know whether this measure is enough finally to stop people taking those decisions and using undocumented workers.

Kevin Green: My take is that we have to be very careful. There are lots of businesses, and we look at national minimum wage breaches. There are only two cases that have involved recruiters, and they were just miscalculations. Such businesses should be held to account to make sure that they put it right, and then we move on. There is a difference in holding businesses to account. Sometimes small businesses without the resource might make mistakes, and we still need to hold them to account. There is lots of regulation already in place to do that. I think some clarity about that and resource for enforcement are important, but that is very different from somebody who is actually bringing people, harbouring people—what I would call human trafficking. That is criminal activity, and we need strong clarity about the potential punishment, the right level of resource and the right level of intelligence gathering across the different agencies, where this is moving in the right direction.

One of the things that we have uncovered is that, when they find criminal activity, lots of my members will provide examples and identify areas to the GLA where they think they have been infiltrated or where they see information, bank details and telephone numbers being given from one employer—they will then whistleblow to the GLA. Those legitimate businesses need to be sure that, by whistleblowing, they are actually helping to resolve the issue. Resource for the GLA is critical in moving this forward. They need the resource to go after the people who are carrying out real exploitation so that we do not mix them up with small businesses that make the odd mistake along the way.

Q71 Chloe Smith: I want to take Ms Robinson back to her point about defences under the Modern Slavery Act 2015, in which I take a great interest—I sat on the Public Bill Committee. I have that Act and the Criminal Damage Act 1971 in front of me because she made a specific reference to that defence. As I understand it, the defence supplied in the 2015 Act in relation to criminal damage specifically excludes criminal damage with the intent to endanger another person's life, so it is a rather more specialist case than she might have suggested. Secondly, on Second Reading of this Bill, the Home Secretary was very clear that all those defences will continue to apply. Will Ms Robinson explain her view?

Caroline Robinson: All those defences will continue to apply. What do you mean?

Q72 Chloe Smith: The Home Secretary said that those defences will continue to apply. I thought I heard you say earlier that the defences will not apply; the Home Secretary says that they will.

Caroline Robinson: In relation to the Immigration Bill?

Chloe Smith: Yes.

Caroline Robinson: Sorry, I was thinking about Second Reading of the Modern Slavery Act. Yes, she did say that, which is why I said it will be very interesting for organisations such as mine, and many others, as part of the Anti-Trafficking Monitoring Group to know for sure what would be the situation in the case I set out in which there is a series of events in a person's stay in the UK. They might be exploited when they arrive and then they escape that exploitation on their own—that happens many times, including to a woman I spoke to last week—before entering undocumented work.

Secondly, what would be the situation if I was in undocumented work when I arrived in the UK and then that work deteriorated to the point of exploitation, as we know is a regular pattern in exploitative working conditions? What would happen there? Would I be offending for that work at the beginning, or would the modern slavery defence, if proved, counter that previous work? Those are the questions that remain for us. It would be brilliant to have expanded detail on that in Committee.

Q73 Mims Davies: I want to pick up with Mr Green, and perhaps Mr Miley, how the Bill intends to improve the market regulation and enforcement of workers'

protections. Why has such a culture built up in certain sectors, and how have we allowed that? Does what is in front of you work for that culture to be broken down?

Kevin Green: In terms of exploitation in certain key industrial sectors?

Mims Davies: Yes.

Kevin Green: What we need—and many people have said this consistently—is the ability to share intelligence across multiple agencies. I think that the director of labour market enforcement is a step in the right direction. Points were made earlier—for instance, how we bring in the Health and Safety Executive and local authorities, because they are going into premises on a regular basis. Over time, that should be extended. Once there is intelligence gathering, it is about the right enforcement regime to tackle that. So, where it is potentially a minor breach, through something like the conduct regulations—there I think we have the right enforcement in place. Sometimes you really need detailed police investigations to crack a criminal activity that has been very exploitative. I think this is a step in the right direction. The additional offences, apart from the one for individuals, are probably helpful. So my answer is that I think it will be helpful in addressing some of that; but, again—as I have said consistently today—it is about the level of enforcement activity. It is very rare for us to agree with the TUC, but—

The Chair: Order. I am really sorry. I am afraid that that brings us to the end of the time allocated to ask questions. Again, I thank the excellent witnesses; we could have spent a lot longer on this.

Keir Starmer: On a point of order, Mr Bone. This afternoon we move to witnesses who deal with the landlord and renting provisions in the Bill. In an answer given orally last week, there was an assurance that the evaluation for the west midlands pilot of the scheme would be available before the Bill Committee. Since we are getting to that witness this afternoon, where is the evaluation? I would certainly benefit from reading it before I start my questioning at 3 o'clock.

The Chair: I thank the hon. and learned Member for the point of order. I will certainly make inquiries where necessary—unless the Minister wants to say anything.

James Brokenshire: I can say that, as Members may have noticed, there is a written ministerial statement on the Order Paper in relation to the right to rent scheme roll-out more generally. Alongside that, the evaluation is being published. I suspect—and can certainly talk to hon. Members outside the Committee as well—that the evaluation will be available on gov.uk well in advance of our considerations this afternoon.

The Chair: That brings us to the end of the sitting. Thank you again to the witnesses; you have the message. The Committee will meet again at 2 pm.

11.27 am

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

Adjourned till this day at Two o'clock.

