Vol. 851
No. 233

Tuesday
9 December 2025

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Tuesday 9 December 2025

2.30 pm

Prayers—read by the Lord Bishop of Southwell and Nottingham.

Introduction: Baroness Neate

2.36 pm

Mary Jane Fiona Neate, CBE, having been created Baroness Neate, of Hammersmith in the London Borough of Hammersmith and Fulham, was introduced and took the oath, supported by Baroness Casey of Blackstock and Baroness Hunt of Bethnal Green, and signed an undertaking to abide by the Code of Conduct.

Mobile Phone and Broadband Prices

Question

2.43 pm

Asked by ***Lord Sikka***

To ask His Majesty's Government what steps they are taking to ensure price increases by mobile phone and broadband companies are fair.

The Parliamentary Under-Secretary of State, Department for Business and Trade and Department for Science, Innovation and Technology (Baroness Lloyd of Effra) (Lab): It is important that customers feel empowered in engaging in the telecoms market, and confident that they are getting a fair deal. We support Ofcom in taking action to protect fairness and transparency, and welcome its recent steps to remind consumers of their rights. The Chancellor and Secretary of State have written to the CEO of Ofcom and the CEOs of major telecoms companies urging further, faster action to ensure that consumers are treated fairly.

Lord Sikka (Lab): My Lords, I thank the Minister for her Answer. Phone and broadband companies such as O2 have violated Ofcom's voluntary code and imposed unjustified mid-contract price hikes on customers. The old and vulnerable are hit hard, as they are less likely to shop around. Inflation and poverty are baked into the system. As reducing the cost of living is a government objective, will the Minister enact legislation to ban mid-contract price rises? Statutory rights are the only effective antidote to corporate abuse of power.

Baroness Lloyd of Effra (Lab): My noble friend is right to highlight the importance of the ability to have the right contract and of giving consumers the information they need. We have no plans to ban in-contract price rises, but consumers have the right to leave, penalty-free, for 30 days from when unexpected price rises are announced by a provider. The Chancellor and Secretary of State asked Ofcom to review the suitability of the current 30-day notice period, to ensure that it can be enacted by consumers who experience unexpected and unannounced mid-contract price rises.

Lord Storey (LD): My Lords, given that many telecom contracts include mid-contract price rises linked to inflation plus an additional percentage, what steps are the Government taking to protect low-income customers from these above-inflation increases?

Baroness Lloyd of Effra (Lab): The Chancellor and the Secretary of State have asked Ofcom to review the effectiveness of the changes that came in in January 2025, which set out that consumers must get the details in pounds and pence, so that they can have clarity. We have asked Ofcom to see how effective that is and a report will be coming in spring 2026, so that we can be assured that the measures are indeed effective.

Lord Vaizey of Didcot (Con): My Lords, I certainly do not support mid-contract price rises but, arguably, mobile prices in the UK are among the lowest in Europe, which to an extent affects mobile operators' ability to invest in the world-class mobile infrastructure we need. On that note, can the Minister update us on the progress of the shared rural network, which will bring mobile coverage to so many areas of the country that do not yet have it?

Baroness Lloyd of Effra (Lab): The noble Lord is right to stress the importance of investing in our digital infrastructure, both in the mobile network and, I would also say, in the fibre network through Project Gigabit. The shared rural network continues to operate this year, bringing more availability to areas that are not covered. Our mobile coverage is increasing year on year.

Baroness Blower (Lab): My Lords, services such as NHS appointments, banking and even shopping, regrettably, have moved online. The typical cost of broadband is around £400 a year—assuming, of course, that people can afford to buy a phone or computer. A new class of social exclusion is therefore emerging. What assessment have the Government made of this new level of social exclusion and its consequences?

Baroness Lloyd of Effra (Lab): Earlier this year, the Government published the *Digital Inclusion Action Plan*, which set out a number of the measures that we are taking, on top of the importance of the digital infrastructure being in place. They include measures on access to devices and the skills and confidence to enter the online world. There are social tariffs that consumers can use; they should contact their providers to make sure that, if they are eligible for them, they can take them up.

Baroness McIntosh of Pickering (Con): My Lords, the noble Baroness will be aware that the 5% hardest to reach in rural areas are being further disadvantaged by the taking out of landlines. Storm Arwen took all the landlines and mobile phones out over a large area of the north-east and north Yorkshire for nine days. People must be able safely to summon help in an emergency. That will not happen if these landlines are taken out.

Baroness Lloyd of Effra (Lab): The resilience of our network is absolutely critical. A fibre network is more resilient to many shocks, so the move to fibre will provide more resilience in the future. It is very important that in this transition from the PSTN to the fibre network, vulnerable customers are supported and have the back-up they need in cases of power cuts, and so on. The transition from the PSTN to the other network has already taken place for a large number of consumers in this country and is well on track towards the final handover.

Lord Watts (Lab): My Lords, can I bore the House again? Our regulators are some of the worst in the world and they are letting the public down. We are not holding them to account. Is it not about time that some of these individuals got sacked and replaced by people who will protect the public?

Baroness Lloyd of Effra (Lab): There are very important roles for our regulators. There are also very important governance systems in place that govern how regulators work and how they are accountable to Parliament. I do not think there is any case at present to take the action my noble friend suggests.

Viscount Camrose (Con): My Lords, in May, the Vodafone-Three merger was completed, reducing the number of mobile operators in the country from four to three. Building on the question from my noble friend Lord Vaizey, six months on from the merger, what is the Government's assessment of its impact, first on consumer prices and secondly on investment in the infrastructure that improves both the digital economy and rural connectivity?

Baroness Lloyd of Effra (Lab): As part of that merger, there was a commitment to invest £11 billion in infrastructure. That is a very important part of the continued rollout of our digital infrastructure, and it is monitored through Ofcom's Connected Nations report, which is published regularly.

Baroness Ritchie of Downpatrick (Lab): My Lords, with the growing emphasis and reliance on—and need for—mobile phones and broadband to undertake business and personal issues throughout the UK, and with problems regarding physical impediments in rural areas, will my noble friend the Minister have immediate discussions with her ministerial counterparts in the devolved Administrations to ensure that there is better connectivity with those broadband companies and the regulator, to ensure better access for all?

Baroness Lloyd of Effra (Lab): It is very important that there is connectivity across all the nations, and geographic coverage targets do include all nations. Many of the programmes in place to support the commercial rollout prioritise those rural areas, including for example in Scotland, Northern Ireland and across the devolved nations, so that all people can benefit from increased connectivity.

Baroness Foster of Aghadrumsee (Non-Afl): My Lords, I urge the Minister to look at the experience of Northern Ireland because, under the confidence and supply agreement signed with the then Conservative Government, Northern Ireland has the best connectivity anywhere in the United Kingdom. That has shown what an enabler it has been for young people and businesses right across Northern Ireland.

Baroness Lloyd of Effra (Lab): That experience indeed shows that good connectivity can provide opportunities for young people to participate in the economy and society. It is our aspiration that all people should have those opportunities.

Lord Vaux of Harrowden (CB): One of the big phone companies has started to charge extra to warn customers of fraud and spam calls. Does the Minister agree with me that part of the basic service of a mobile phone company should be to protect its customers and that it should not charge extra for doing that?

Baroness Lloyd of Effra (Lab): The issue of fraud and telecoms is very important. My noble friend Lord Hanson of Flint recently launched a telecoms fraud charter to emphasise how important it is for all telecoms companies to take action on that.

Tropical Forest Forever Facility

Question

2.55 pm

Asked by ***Baroness Sheehan***

To ask His Majesty's Government what contributions and initiatives they have undertaken in support of the Tropical Forest Forever Facility.

The Minister of State, Department for Energy Security and Net Zero (Lord Whitehead) (Lab): My Lords, the UK has had a long-standing role in protecting forests and supporting efforts to halt and reverse deforestation. While the Government did not announce an investment in the Tropical Forest Forever Facility at COP, we very much remain supportive of the TFFF and are proud to have substantially assisted Brazil to develop the initiative. We will continue to provide support to the TFFF, including through co-funding the World Bank trust fund that will operationalise the facility and through the AIM4Forests programme, which will provide critical technical assistance to support delivery of the TFFF.

Baroness Sheehan (LD): My Lords, I welcome the Minister to his new role. It is deeply disappointing that the Government have let down historic allies such as Brazil, Norway and Germany by not investing in the Tropical Forest Forever Facility at COP 30. It is a desperately needed initiative to end tropical deforestation, and it has cross-party and public support. I have two questions for the Minister. First, why will the Treasury not count investment in the TFFF as an asset on its public balance sheet? Secondly, when will the Government implement the long-overdue Schedule 17 due diligence provisions under the Environment Act?

Lord Whitehead (Lab): The decision on whether to invest in the TFFF, as it came up, following the intense work that the UK did in developing it with the Brazilian Government, was very much part of the question of our fiscal position around the time of the Budget. That does not mean that this is necessarily gone for ever; it will be under continuing review in the future. I will write to the noble Baroness on the implementation of the schedule that she alluded to, because I am not exactly sure of its status at present.

Lord Grayling (Con): My Lords, I appreciate that the Minister may need to write to me too to answer my questions. In the autumn the Joint Intelligence Committee produced a report on the impact on the UK of global biodiversity loss, which the report is believed to say is very significant. Will the Minister please find out what has happened to that report? When will it be published? Will the Government continue to make clear that biodiversity loss, the loss of forests and global deforestation are damaging to us all?

Lord Whitehead (Lab): I will indeed have to write to the noble Lord about where exactly that report is at the moment. I remind him that the UK is extremely active on its biodiversity arrangements, particularly its forestry and woodland arrangements. The target for the 16.5% coverage of woodland and forestry in England by 2050 is already being substantially adhered to: 21,000 hectares of new woodland were introduced last year, which is a generational record. The UK will continue to act in that manner on its biodiversity commitments.

Lord Grantchester (Lab): My Lords, I pay tribute to our Secretary of State for DESNZ and his team for their dedication to keep attention on the climate agenda. Does my noble friend agree that, besides finance, the United Kingdom's organisational support and commitment to encourage deeper participation from other nations are critical to realising effective change?

Lord Whitehead (Lab): Yes, I agree with my noble friend. The UK continues to be one of the major donors to forest conservation and restoration, and we expect to deliver on the £1.5 billion of spending on forests pledged at COP 26. The UK is co-chair of the Forest & Climate Leaders' Partnership, a coalition of more than 30 Governments working together to accelerate delivery of the goal to halt and reverse forest loss by 2030. This played an instrumental role in delivering key commitments for indigenous peoples and local communities —who are, after all, the best stewards of tropical forest development and protection—including a commitment that will regularise land tenure in 160 million hectares of forest, one of the most effective ways to protect forests. We also backed the Belém call for the Congo Basin, which will deepen forest protection in the world's second-largest rainforest.

Lord Bellingham (Con): My Lords, further to the noble Baroness's Question, is the Minister aware that Ed Miliband said that the TFFF is a key game-changer in reversing the destruction of rainforests and that that is why the Government worked closely with the World Bank and with the Brazilian Government to get this in place? The Minister mentioned that the last Budget was a problem in terms of UK decision-making, but France had similar issues, as did Germany, Malaysia, Singapore and Norway—I could go on—but all those countries came up with hard cash to support this very worthy scheme. Was Ed Miliband overruled?

Lord Whitehead (Lab): No. The particular circumstance surrounding the TFFF itself, as I am sure the noble Lord will be aware, was one of intense UK participation in the setting up of the TFFF. As the noble Lord mentions, we consider it to be an essential and significant initiative as far as the future of forests and biodiversity is concerned across the world. That is why we put so much effort into getting this off the ground and support the continued funding for the operationalisation of that fund. It is just that, at that particular moment, we were not able to produce some additional funding for the TFFF initiative. We very much welcome that other countries have initially put some in. As I have mentioned, it does not mean that the issue is gone and forgotten; it is under continuous review for the future.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, this might as well have been considered a Defra Question, so I offer my sympathies to the Minister. But here we are, and I am always grateful to be able to ask a DESNZ question, my first to the new Minister. In the COP 30 Statement repeat last week and his initial response today, the Minister did not rule out contributing to the TFFF fund in the future. He may not have had the opportunity to read the letter entitled "Nuclear necessities" in yesterday's *Times*, signed by 14 senior academics and luminaries in that industry. Given our country's current economic situation and the need for large capital investment to meet the Government's own green targets, can the Minister now rule out funding the TFFF and instead guarantee that future funding will, as the letter requests, prioritise re-establishing our critical domestic infrastructure, perhaps including a medical isotopes reactor and a thermal hydraulics facility—preferably in north Wales?

Lord Whitehead (Lab): I very much welcome the noble Baroness to her new position on the Front Bench opposite, and I hope we will have constructive discussions in the future. She underlines the question of the different priorities that are ahead of us at the moment in terms of where to put money at particular junctures. I must admit that I am not a habitual reader of the *Times*, so the noble Baroness is one step ahead of me there, but I will have a good look at that letter. What she says underlines that at the moment this country has a huge number of sometimes not always well-anticipated demands on our funding—nuclear is one of them, and obviously defence is another—and that clearly has an effect on where you put money at particular points, however much your heart tells you that you would like to do so.

The Earl of Kinnoull (CB): My Lords, the Minister mentioned earlier the tree planting that has been going on in the United Kingdom. Is he aware that the biggest threat to those trees reaching maturity and

[The Earl of Kinnoull]
helping with the net-zero calculation is the grey squirrel? Can he give signs of the Government's determination to deal with the grey squirrel problem and the main research in fertility control going on at the government laboratories at the Animal and Plant Health Agency?

Lord Whitehead (Lab): I am not sure I can give the noble Earl the assurance that the Government will go out and shoot large numbers of grey squirrels in the near future. I accept that squirrels, deer and other similar animals are probably the biggest threat to what we plant as a woodland plantation and whether it actually gets to maturity in 50 years so that it can make its impact on reafforestation and carbon emissions reduction. That is one reason why the UK is concentrating its woodland afforestation and forest development efforts on managed plantation woodlands, so that the best protection is available within those woodlands from the sort of predation that the noble Earl mentions as a barrier to the development of mature woodlands and forests.

Armed Services: Sexual Violence

Question

3.07 pm

Asked by ***Baroness Curran***

To ask His Majesty's Government what support is offered to victims of sexual violence in the armed services.

The Minister of State, Ministry of Defence (Lord Coaker) (Lab): My Lords, people who choose to serve their country deserve to do so free from fear of abuse. The Defence Serious Crime Command has driven improvements to victim care and investigations since its establishment in December 2022. The Victim Witness Care Unit has delivered independent, exemplary care to victims of crime since launching in 2023. We have partnerships with several charities providing independent support, and we are further strengthening this with an independent legal advocacy pilot and improving access to medical support following an incident, so action continues.

Baroness Curran (Lab): I thank my noble friend the Minister for that very helpful reply. Are all complaints of sexual harassment and assault recorded? How are they monitored, and is the Minister aware of what percentage leads to disciplinary action or prosecution?

Lord Coaker (Lab): My Lords, I thank my noble friend for her Question, which I think is of importance and interest to us all. As I said, various units have been set up to deal with this problem. The MoD publishes annual statistics for sexual offending within the service justice system, and the Service Complaints Ombudsman for the Armed Forces reports on complaints of sexual harassment. In 2024, there were 294 criminal investigations into sexual offences, including rape and sexual assault, compared to 251 in 2023. Additionally, 37 cases were transferred to the Home Office police. A further 10 cases were recategorised as non-sexual offences but remained within the service justice system and were handled by commanding officers. The Service Prosecuting Authority brought 61 charges for sexual offences in 2024 based on cases received that year. I hope that is helpful to my noble friend.

Baroness Brinton (LD): My Lords, the Army website for the Victim Support Pathway for sexual offences is, helpfully, very clear and, most of all, encouraging, making it plain that it is not the victim's fault and setting out a route for her—it usually is a her—to get help. I apologise for asking for more data, but is there data yet by rank to show what percentage of the military workforce has undertaken training recommended on the Victim Support Pathway? The key advice about not being a bystander will work only if there is extensive training throughout the military.

Lord Coaker (Lab): I agree with the noble Baroness about the importance of training all ranks. Certainly, I know that the military take that extremely seriously. The establishment of the victim care unit is part of ensuring that victims are supported through the process. On whether the training has been identified according to rank, I will go back and see whether that has been done.

Lord Morse (CB): My Lords, does the Minister agree that part of supporting victims is showing clear and sustained condemnation for this type of behaviour, and ensuring that the military pursues these cases vigorously and rapidly and that we do not find delay in the process?

Lord Coaker (Lab): I know that there have been a number of documented cases of utterly unacceptable behaviour, some of which is criminal and deserves to be prosecuted. I know from speaking to senior officers, past and present, that they are determined to do something about the small number of people who undermine the culture of our Armed Forces. They are adamant in the pursuit of those who break those rules and act inappropriately. The Government support them in that, as did the previous Government. We support our senior officers and officers at all ranks in rooting out this totally unacceptable behaviour.

Baroness Symons of Vernham Dean (Lab): My Lords, this Question is specifically about sexual violence, but a lot of distress is caused by sexual harassment. Can the Minister assure the House that sexual harassment, which can cause great anxiety and difficulty to the victim involved, is taken very seriously too in the Armed Forces?

Lord Coaker (Lab): I can assure my noble friend of that. The Armed Forces go out of their way to encourage service personnel to report all examples of sexual harassment. They make it clear that sexual harassment or sexual intimidation below what we might consider to be the criminal threshold is unacceptable as well. They encourage self-reporting and keep statistics in respect of that. At all levels and at all ranks within the Armed Forces, they are seeking to root out unacceptable behaviour, whether it is so-called minor sexually inappropriate behaviour or more serious criminal activities.

Baroness Goldie (Con): My Lords, in response to my amendment to the Armed Forces Commissioner Bill, which would have enabled an independent direct route to the commissioner for whistleblowing complainers, the Government announced that they would undertake a whistleblowing in defence review. Can the Minister update the House on the progress of that review?

Lord Coaker (Lab): I thank again the noble Baroness for the whistleblower review amendment that she brought to the Armed Forces Commissioner Bill in liaison with the noble Baroness, Lady Kramer. That is being taken forward. The whistleblowing review is under way. We expect an interim report to be available in the very near future, with a full report available sometime in the spring next year. I assure the noble Baroness that it has not been forgotten; it has not been put on the shelf; it is something that we are actively pursuing.

The Lord Bishop of Southwell and Nottingham: My Lords, given that chaplains routinely provide partial support for victims of crime, including sexual offences, can the Minister outline what steps His Majesty's Government are taking to ensure that Armed Forces chaplains receive specialist trauma-informed training so that they can support survivors of sexual violence? Is such training consistent across the services?

Lord Coaker (Lab): I can assure the noble—I do not know what the correct title is.

Noble Lords: Right reverend Prelate.

Lord Coaker (Lab): The right reverend Prelate, who I know very well is the Bishop of Southwell and Nottingham. I can reassure the noble—

Noble Lords: Oh!

Lord Coaker (Lab): I can reassure the right reverend Prelate that of course the chaplaincy service within the Armed Forces is involved in support and dealing with these matters when they arise. That sort of support is essential, because victims should have the confidence and support to come forward. If they do not feel that anyone is there to support them, they will not do so. The chaplaincy service is fully involved in these discussions and obviously at the forefront of giving support to those who find themselves in that situation. As for consistency across all services, I would hope that that is consistent across all three services, because it affects them all, but, again, I will go back and make sure that is the case.

Lord West of Spithead (Lab): My Lords, I conducted the study 30 years ago into whether women should serve at sea and came to the conclusion that they should, and it has been a huge success. Does my noble friend the Minister agree that, overall, women have added hugely to our Armed Forces and that, with all these debates, there is a real risk it might put women off joining for what is still a fantastic career with huge opportunities for them? It is only a tiny minority, and we need to be very clear to get that message across.

Lord Coaker (Lab): I congratulate my noble friend again on the work that he did with respect to encouraging women into the service and in particular into the Navy and indeed the submarine service. A number of noble and gallant Lords are in the Chamber listening to this debate, and I know that they too have been right at the forefront of encouraging that. Let us be clear, of course there are unacceptable behaviours; of course there are examples where standards are not met, but across the whole of the services, the contribution that women make is phenomenal. They add to our services; they are an important part of our Armed Forces, and it is a brilliant career for women. I hope many more women join the services in the future.

Lord Hamilton of Epsom (Con): My Lords, the noble Lord missed out that it was a ministerial decision to send women to sea, and it was taken because we were turning away very good women and accepting substandard men. That decision was taken by a Conservative Government.

Lord Coaker (Lab): I will just say to the noble Lord that I try very hard not to be partisan on defence matters. I do not really care whether it was a Conservative Government or a Labour Government. The important principle is that women have made a huge contribution to our Armed Forces. That decision was the right one and, frankly, that is what we should be celebrating.

Facial Recognition Technology: Safeguards

Question

3.17 pm

Asked by ***Baroness Jones of Moulsecoomb***

To ask His Majesty's Government what assessment they have made of the safeguards necessary for the use of facial recognition technology by the police.

The Minister of State, Home Office (Lord Hanson of Flint) (Lab): The Government commenced a consultation on 4 December on the use of facial recognition technology. There is an established legal basis for the use of facial recognition technology by the police, but the Government intend to bring forward a new bespoke legal framework to provide clearer, more specific rules. Through the consultation, we want to hear views on when and how facial recognition should be used and what safeguards and oversight are needed.

Baroness Jones of Moulsecoomb (GP): I thank the Minister for his Answer, but does he now accept that the police's facial recognition algorithm has been flawed? It has been racially biased and biased against women. Actually, it should be stopped until it can be improved.

Lord Hanson of Flint (Lab): The Government recognise that the algorithm needs to be examined, and that is why we have asked His Majesty's Inspectorate of Constabulary to present an urgent report to the Government on the mechanisms of the algorithm. In the meantime, facial recognition technology is a useful

[Lord Hanson of Flint]
tool. If missing people walk past a facial recognition van, they can be identified. If people are on a wanted list, they can be identified. If people appear on a Ring doorbell, they can be put against a facial recognition database to see whether they have committed an offence and be further questioned. There are good things about that, but the consultation is about how we can better regulate it. HMCIC will look at how we can deal with the issues with the algorithm over the next few months.

Baroness Chakrabarti (Lab): My Lords, notwithstanding their being of the party that introduced the ground-breaking and vital Police and Criminal Evidence Act 1984, the previous Government allowed the mushrooming of police use of this technology with no express and specific statutory authorisation. Does my noble friend the Minister agree that it is unacceptable, for both democracy and the rule of law, to roll out this technology further, however useful it is, without an Act of Parliament?

Lord Hanson of Flint (Lab): My noble friend raised the issue, but I maintain that it is a valuable use of resources to help with crime prevention. We have organised a consultation, which opened on 4 December. My noble friend and anybody else can submit evidence or comments to that consultation over the next 10 weeks. When it is complete, the Government will assess the regulatory framework. We already intend to establish an oversight body to examine how that regulation will operate, which will require further work by the Government.

Lord Hogan-Howe (CB): My Lords, the Court of Appeal has decided that the use of facial recognition is lawful. Equally, and to reassure everybody, the Minister is probably right to have a consultation. Facial recognition is far better at spotting people than people are. Even though it can fail at times, it is far better than any individual. It has two uses, one live and one retrospective; this was a complaint about retrospective use. The noble Baroness, Lady Jones, has a point and of course it needs to be fair. It should not discriminate by race, but I was a little surprised to see some of the evidence that was offered, because we had been reassured that it is fair. It is wise to examine it, but I would do so from the point of view of making it work, because it is a really effective tool to stop crime that we should not throw away. Does the Minister agree?

Lord Hanson of Flint (Lab): I agree with the noble Lord. When facial recognition technology is used retrospectively, it is not usually the sole piece of evidence brought either before the police for potential referral to the CPS or before the courts. It is one aspect of the evidence. It is important that we have the ability to use facial recognition but, quite rightly, His Majesty's Inspectorate of Constabulary is looking at the issues raised by the noble Baroness, Lady Jones of Moulsecoomb. There is also a consultation to which any Member can make any representation about the use or regulation of that technology. Ultimately, however, it is a crime fighting tool that can also—it is worth remembering—find missing people who happen to walk past a facial recognition camera and who may not know that they are considered missing. That is also an important tool.

Baroness Brinton (LD): My Lords, I am very grateful for the Minister's response in which he said that legislation and regulation are important. It is overdue by eight years, to be precise, during which the Home Office, under various Governments, had the worrying view that existing legislation is up to the job. Why is the consultation so focused on police use of facial recognition, when it has also had rapid and uncontrolled growth in the private sector? Frankly, it is the Wild West on the high street, which can have life-changing consequences for some innocent shoppers. Will the Government undertake to look at the private sector as well?

Lord Hanson of Flint (Lab): The noble Baroness can make representations on those matters as part of the consultation. We are looking at the public sector because we are the Home Office and are responsible for policing. That is therefore the issue that we are examining. There need to be some safeguards, regulation, and an understanding of and groundwork for that. I can tell the noble Baroness that nobody who is innocent of an offence needs to worry about facial recognition technology—nobody. That is why we are looking at these issues. I will defend facial recognition technology at this Dispatch Box and elsewhere. The consultation is there to allow this House and others to make their views known on what is an effective tool in crime fighting. The noble Baroness is shaking her head, but I ask her: if somebody who is guilty of a crime and on a wanted list walks past a facial recognition camera, should they not be arrested?

Lord Davies of Gower (Con): My Lords, recognising what the Minister said about consultation, I ask him what the Government's strategy is for a rollout of facial recognition in the UK. Do they have plans to roll out facial recognition to all forces across the country? If so, will they publish comprehensive guidance to ensure that that rollout is smooth and, as we have heard today, that all necessary safeguards are put in place?

Lord Hanson of Flint (Lab): The Government have invested over £12 million in supporting the development of facial recognition technology and have supported local forces in doing that. Ultimately, this is a decision for local forces at the moment. We want to see the outcome of the consultation, but I think that that it is an important use of technology to help prevent crime, catch criminals and find missing people. It is also used by police officers on their body-worn cameras to identify individuals when they say they are somebody but, actually, it can be proved that they are not. It is important tool, but the key questions are how we safeguard it, how we put regulations around it and what body will examine those regulations. We are looking at those in the consultation and I will take any representations from the noble Lord as part of that.

Lord Alton of Liverpool (CB): My Lords, I welcome what the Minister said about the importance of safeguards. He will have seen the report last week from Liberty and the *Times*, which found that, across 43 regional police forces, children as young as 12 have been caught by facial recognition. Will he confirm that he will talk directly to Dame Rachel de Souza, the Children's

Commissioner, who has expressed concern about this, and that the specific position of children, and their safeguarding and protections, will form an important part of the consultation?

Lord Hanson of Flint (Lab): Yes, my Lords.

Lord Bailey of Paddington (Con): My Lords, given that facial recognition is already in use, what reassurance can the Minister give to particular communities who feel they have been overpoliced with it? We have already heard that the algorithm is biased against women and people from ethnic minority communities. In addition, what can he do about protecting people's data? When will these files be erased once someone has been proven innocent or not?

Lord Hanson of Flint (Lab): The first point the noble Lord mentions is extremely important, and is why we have asked His Majesty's Inspectorate of Constabulary to examine the very issues he has raised. It will report to us shortly, in line with the consultation, which is running in parallel.

On data retention, data is used against known databases. If an individual is missing but is wanted for a crime, that can show up on a database and the facial recognition can work on that. If an individual says they are Mr Jones of X but the police body-worn camera says they are not and are somebody else, that can be used against existing database material. If somebody commits a crime and is caught on a Ring doorbell or CCTV, the facial recognition technology can match the individual, who has potentially been arrested, with the original crime. It is not for general use against the public at large but for use against specific individuals who have specific reasons to fall within the database that is used by facial recognition.

Lord Brooke of Alverthorpe (Lab): My Lords, could the Minister say whether this will extend to the use of drones, which are being used privately and publicly?

Lord Hanson of Flint (Lab): That is a very interesting question. The Home Office is examining the use of drones and how they can be used in relation to a range of matters. If my noble friend will allow me, that matter is important in the context of the Question but is also potentially tangential to it. I will examine what he said and we will discuss it further.

Baroness Fox of Buckley (Non-Afl): My Lords, will the Minister explain how the Government will assess and balance other liberties, such as privacy and the right to be anonymous? He rightly pointed out that this technology might be aimed at targeting the bad guys or missing people, but it requires mass surveillance. How does the Home Office seek to protect the innocent majority of people from undue state observation, surveillance and, actually, an attack on their rights?

Lord Hanson of Flint (Lab): First, there is a consultation about the very issues the noble Baroness raises and oversight of the technology. Secondly, this is not about individuals who are not known to the police; it is about individuals who are on a watch-list who might be wanted, individuals who have already committed a crime who are trying to be matched with a facial recognition camera, or verification from a body-worn camera along the lines that the noble Lord, Lord Hogan-Howe, mentioned. The noble Baroness should put her comments in the consultation and be reassured that this is about a select group of people before facial recognition technology.

Motor Fuel Price (Open Data) Regulations 2025

Motion to Approve

3.30 pm

Moved by ***Lord Whitehead***

That the draft Regulations laid before the House on 13 October be approved.

Relevant document: 39th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 4 December.

Motion agreed.

Online Safety Act 2023 (Priority Offences) (Amendment) Regulations 2025

Motion to Approve

3.30 pm

Moved by ***Baroness Lloyd of Effra***

That the draft Regulations laid before the House on 21 October be approved.

Relevant document: 40th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 4 December.

Motion agreed.

Financial Services and Markets Act 2023 (Prudential Regulation of Credit Institutions) (Consequential Amendments) Regulations 2025

Financial Services and Markets Act 2000 (Regulated Activities) (ESG Ratings) Order 2025

Motions to Approve

3.31 pm

Moved by ***Lord Wilson of Sedgefield***

That the draft Regulations and Order laid before the House on 20 and 27 October be approved.

Relevant document: 41st Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 8 December.

Motions agreed.

Crime and Policing Bill

Committee (5th Day)

Northern Ireland legislative consent granted, Scottish and Welsh legislative consent sought. Relevant documents: 11th Report from the Constitution Committee, 33rd Report from the Delegated Powers Committee, 5th Report from the Joint Committee on Human Rights.

3.31 pm

Clause 82: Removal of limitation period in child sexual abuse cases

Amendment 289

Moved by ***Lord Davies of Gower***

289: Clause 82, page 98, leave out lines 3 to 11

Member's explanatory statement

This amendment removes the ability of the court to dismiss an action in respect of personal injuries attributable to child sexual abuse on the grounds that the defendant would suffer substantial prejudice.

Lord Davies of Gower (Con): My Lords, Amendment 289 is a probing amendment through which I am seeking the Government's justification for the substantial prejudice provision in Clause 82. By way of background, Clause 82 removes the three-year limitation period for personal injury claims in cases relating to child sexual abuse. As such, it implements recommendation 15 of the independent inquiry into child sexual abuse chaired by Professor Jay. The inquiry found that most personal inquiry claims relating to child sexual abuse are not only modest in value, but in many cases do not result in compensation being paid. The reason for the high rate of failure is that a significant number of those claims are prevented from proceeding as a result of the limitation period on bringing forward a claim under the Limitation Act 1980. That Act permits the three-year period for claims resulting from sexual abuse as a child to begin from age 18, therefore expiring at 21, but many survivors do not feel comfortable with coming forward and telling people what happened until much later, never mind gathering the courage to bring a lawsuit against their abuser. The result is a lack of justice for those who have been abused as a child, and it is welcome, therefore, that the Government have decided to bring this forward.

However, there is possibly an issue with the drafting of Section 11ZB, which is inserted by this clause. It establishes the situations in which the court must dismiss an action for injury arising from child sexual abuse. It states that for all cases brought after the commencement of this clause, the court must dismiss the action if the defendant can prove that a fair hearing cannot take place. However, for any case that started before this new clause comes into force, the test for dismissal is set considerably lower because in this instance, the court must dismiss the claim if the defendant can prove that they would suffer substantial prejudice, and thus the proceedings are inequitable.

This goes further than was recommended by the Jay inquiry. Its report referred to

"the express protection of the right to a fair trial, with the burden falling on defendants to show that a fair trial is not possible".

The only test the independent inquiry wanted was that the test of whether a fair trial can take place applied to all past and future cases. I know there is concern that the ability of the court to dismiss actions due to substantial prejudice placed on the defendant will create uncertainty for survivors of child sexual abuse and delay access to justice. This has the potential to undermine the purpose of the recommendation of the Independent Inquiry into Child Sexual Abuse and might not provide the certainty and support survivors deserve.

I reiterate that this is simply a probing amendment, and I would be grateful if the Minister could elaborate on why the Government have gone further than recommended by the Independent Inquiry into Child Sexual Abuse. I beg to move.

Lord Faulks (Non-Afl): My Lords, I have an amendment in this group. I repeat a declaration of interest I made at Second Reading: that I have appeared as a barrister in a number of the leading cases about limitation of the law of tort. The purpose of limitation periods is to give a claimant a fair chance to decide whether to bring a claim, but also to place some sort of time limit on claims. Limitation periods vary according to the cause of action—for example, defamation claims have to be brought within one year. Personal injury claims have always been in a special category. The normal limit is three years or, in the case of a young person, three years after attaining the age of majority. But because some personal injuries manifest themselves only some time after they have been caused, particularly those relating to disease claims, the law has responded by postponing the starting date to reflect something called the "date of knowledge".

What constituted knowledge was difficult to encapsulate in statute and gave rise to a lot of litigation, particularly in the context of what are generally known as historic claims for child sexual abuse. But these difficulties were largely overcome by Section 33 of the Limitation Act 1980, which gave the court a complete discretion to disapply the limitation period. Although the section gave various sensible guidelines as to matters to be taken into consideration, the discretion was expressed to be entirely unfettered.

One difficulty of the law remained. In claims for deliberate acts of assault, there was a finite six-year limitation period, rather than a three-year extendable limit for claims in negligence, so some claimants did not have the advantage of Section 33. This problem was overcome by the decision of A v Hoare in 2008—I was one of the unsuccessful defendants in that case—when the House of Lords decided that, whether the claim was in negligence or in assault, there was still a discretion to disapply the limitation period.

The only question that remained was whether it would ever be too late to bring a claim in the light of Section 33. Lord Brown of Eaton-under-Heywood, a much-missed Member of your Lordships' House, made this observation:

"If a complaint has been made and recorded, and more obviously still if the accused has been convicted of the abuse complained of, that will be one thing; if, however, a complaint comes out of the blue with no apparent support for it (other perhaps than that the alleged abuser has been accused or even

convicted of similar abuse in the past), that would be quite another thing. By no means everyone who brings a late claim for damages for sexual abuse, however genuine his complaint may in fact be, can reasonably expect the court to exercise the section 33 discretion in his favour. On the contrary, a fair trial (which must surely include a fair opportunity for the defendant to investigate the allegations …) is in many cases likely to be found quite simply impossible".

That passage was in fact referred to in the conclusions of IICSA, which decided that the three-year period should be removed, but that there should be

"express protection of the right to a fair trial, with the burden falling on defendants to show a fair trial is not possible".

The Government responded to IICSA's report and did not support getting rid of limitations. The Government acknowledged the importance of Section 33 and made this point:

"A limitation period also encourages disputes to be resolved timeously thus promoting finality and certainty. Both are key cornerstones of the legal system. As such, the Government's opening position, ahead of consultation, is that it does not support this option".

Nor did they support a special limit for claims arising from sexual abuse. I remind the Committee that, in 2017, in the case of Carroll v Chief Constable of Greater Manchester Police, the Court of Appeal emphasised the unfettered nature of the Section 33 discretion.

My question to the Government at Second Reading was essentially this: what cases do they envisage would now be allowed to proceed which would not have done under the current law? I do not expect an immediate answer, but the Government have now had plenty of time to consider their response. There was a consultation following the Government's response that I referred to, but it was not particularly large and did not contain consistent answers.

Changing the law of limitation is best an exercise following the careful balancing of respective interests, perhaps by the Law Commission. What appears to have happened here is that the Government, notwithstanding the initial view that I referred to, have decided to come up with some sort of compromise. In doing so, I fear they have produced in Clause 82 a real dog's dinner of a provision.

Clause 82 is headed:

"Removal of limitation period in child sexual abuse cases",

but it does not do that. It specifically provides that sexual abuse is in a separate category from, for example, physical abuse, although this was precisely what the Government did not want when they responded to the original recommendations. It contains a rather unclear provision that, when a dispute has been settled, it will no longer be subject to these new provisions. It probably does not include discontinued claims or claims settled otherwise than by way of a formal agreement.

New Section 11ZB contains some very unclear provisions as to the circumstances in which the court can dismiss an action, while at the same time containing in new subsection (2) the provision:

"The court must dismiss the action if the defendant satisfies the court that it is not possible for a fair hearing to take place".

The interrelationship of new subsections (2) and (3) is incoherent and will inevitably result in litigation. The lack of clarity on what is and is not sexual abuse, and what is and is not settlement, will, I fear, also give rise to litigation.

I agree with the Opposition Front Bench's probing amendment that we should get rid of new Section 11ZB(3), but that would leave a repetition of what the law is anyway and would not deal with the points about what constitutes sexual abuse or settlement via agreement. My conclusion is that there is absolutely nothing wrong with the law as it is. This rather messy compromise will give rise to unnecessary litigation and I am unsure it will provide remedies where remedies are not already available.

Sexual abuse, particularly of children, is abhorrent, and we now know there has been far more of it than was originally perceived. It is, however, important to point out that claims are not usually made against individual perpetrators; one can understand why there would not be much sympathy for a claim being brought, however late, against such a perpetrator. The usual defendant is, for example, a school, religious organisation, local authority or even central government. They may or may not have any knowledge of what happened but, because of the expanded doctrine of vicarious liability, will be deemed in law to be responsible for what occurred. They may or may not be covered by insurance.

As Lord Brown pointed out, there will come a time when it is quite simply inappropriate, many years later, for claims to be brought before the court. However sympathetic one is to the victims of sexual abuse, the law currently caters adequately for the balance between the interests of claimants and defendants. If we include Clause 82 in the Bill, I fear we will make bad law. The clause should not stand part.

Baroness Brinton (LD): My Lords, I have signed Amendment 289. This is the first opportunity I have had to speak in Committee because of family illness, and it is good to be back.

In a previous group of amendments last week, the Committee heard the concerns of a number of Peers worried that the Government's proposals might not ensure a fair route to reporting child sexual abuse. This amendment is just as important, and I thank the noble Lord, Lord Davies of Gower, for tabling it. I also thank the noble Lord, Lord Faulks, for his helpful exposition of the legal details. I come to this as a champion for victims, rather than from the legal perspective.

Despite the many concerns about those accused of child sexual abuse being able to escape from the accountability provided by the courts, the Bill, in Clause 82, lines 3 to 11, lays out a specific route for those accused who the courts "must"—a strong word; we note that it does not say "consider"—cease action against if the defendant in question claims

"there would be substantial prejudice to the defendant"

if the proceedings were to proceed. To put it bluntly, this is a gift to any defence lawyer. Much of the evidence heard by the Independent Inquiry into Child Sexual Abuse was scenario after scenario where senior people—clergy, politicians, police officers, magistrates and so on—were able to cover up what had happened because they were in a position of power over the victim, and, quite often, over potential witnesses too.

3.45 pm

Part of Clause 82 says that retrospectivity is a key reason why defendants could claim substantial prejudice. Given that the IICSA report demonstrated that the

[Baroness Brinton]
power of those who abused victims kept them silent for many years, often decades, it is just not sensible to give defendants in the future, whether for current or historic abuse, this "get out of jail free" card—literally, in this case.

I note the point from the noble Lord, Lord Faulks, that schools or bodies are often the ones sued, but here lies the exact same problem. We know from experience—I will come to this in a later amendment—that many people do not report the abuse they suffered as a child until they are in their 30s, so there is a very long gap before justice can be sought.

New Section 11ZB(3) to be inserted by Clause 82 provides the perfect escape clause for such a defendant and is unworthy of the Bill. We support the proposals in Amendment 289. I am mindful of the argument from the noble Lord, Lord Faulks, for why Clause 82 should not stand part and keen to see something that will work in law.

Lord Blencathra (Con): My Lords, I think we all welcome the concept of Clause 82, because it provides a significant step forward towards justice for survivors of child sexual abuse. By removing the limitation period, the provision acknowledges the unique barriers facing victims in coming forward after many years of abuse.

Let us be clear: we all agree that child sexual abuse is a crime marked by profound trauma, secrecy and manipulation. As the noble Baroness, Lady Brinton, pointed out, survivors often require years, possibly decades, to process their experience and feel able to seek justice. The limitation periods, while serving certain legal purposes, have historically denied victims their day in court. The removal of this barrier is a recognition of the lasting impact of abuse and the difficulty in disclosing it. I therefore cannot understand this "get out of jail free" card to permit a defendant to avoid liability on the grounds of substantial prejudice. In my inexpert, non-legal opinion, it risks undermining the legislative intent and perpetuating injustice, and it would send a message contrary to the spirit of the clause.

While the possibility of prejudice to defendants—such as faded memories, lost evidence or deceased witnesses—is real, it must be weighed against the injustice suffered by survivors who have been unable to seek redress due to the limitation period. I think all noble Lords here of a legal bent would say that our courts are perfectly well equipped to assess evidence, account for gaps and determine credibility, even in historic cases. The link of prejudice can be mitigated through fair trial procedures and should not override the fundamental right of survivors to have their claims heard.

We as legislators must ensure that perpetrators of child abuse are held to account, regardless of the time elapsed. Dismissing claims on the basis of substantial prejudices would not only deny justice to individuals but would undermine public confidence in the legal system's ability to deal with some of the most serious wrongs to our children that we have witnessed over the last 30 years. It would risk protecting abusers from scrutiny, contrary to the principles of transparency and accountability.

To conclude, courts must prioritise the rights of survivors and the public interest in accountability, ensuring that the defence does not become a loophole that perpetuates injustice. Therefore, I support the probing amendment in the name of my noble friends and the noble Baroness, Lady Brinton.

Baroness Doocey (LD): My Lords, on these Benches we recognise the purpose of time limits and we recognise the right to fair trial, but survivors of child sexual abuse should not be barred from justice simply by the passage of time. The difficulty lies, of course, in striking that balance. At the moment, too many claims with merit are rejected at the outset or, more often, not brought at all. Clause 82 is therefore welcome in principle, yet new Section 11ZB(3) then proceeds to undermine it, mandating dismissal if defendants can show "substantial prejudice"—a vague term undefined in the Bill, which, as my noble friend Lady Brinton said, may be appealing to defence lawyers. A court already has the power to dismiss a case if it believes that the defendant cannot receive a fair trial, so we find it difficult to understand the justification for this extra layer of protection. The inclusion of this provision risks effectively undoing all the good work of the clause. Amendment 289 would close that escape hatch, ensuring that it brings meaningful change. I urge the Government to reconsider in the light of this amendment.

Lord Pannick (CB): I add my voice to what has been said by the noble Baroness, Lady Doocey, and the noble Lord, Lord Faulks. The fundamental principle is set out in new Section 11ZB(2): if the defendant cannot have a fair trial, the hearing cannot proceed. The gravity of the allegations and the public interest demand that there be no hearing, notwithstanding the damage that this causes to the unfortunate alleged victim. I entirely agree that new Section 11ZB(3) confuses the position; it introduces uncertain concepts and will inevitably lead to unhelpful litigation.

The Parliamentary Under-Secretary of State, Ministry of Justice (Baroness Levitt) (Lab): My Lords, before I speak to Amendment 289, I thank my noble friend Lady Royall, who is not in her place today because she is ill, and Mr Stephen Bernard, both of whom met me recently. We discussed both the impact of the limitation period on victims and survivors of child sexual abuse and their concern over the test of substantial prejudice within this clause. I was moved by what Mr Bernard told me and I thank him for his courage in telling me about what happened to him.

I thank the noble Lord, Lord Davies of Gower, for moving Amendment 289. I hope both my noble friend Lady Royall and the noble Lord will be reassured that I fully understand the sentiment behind the amendment. I thank the noble Baronesses, Lady Brinton and Lady Doocey, and the noble Lords, Lord Pannick and Lord Blencathra, for welcoming the general spirit of the clause and for their constructive comments. I make it clear that we absolutely do not want to add additional or unnecessary barriers to stop victims of child sexual abuse from proceeding with their civil claims. So I have asked my officials to look closely at

the issues this amendment raises for further consideration, and I aim to provide a further update to your Lordships on Report.

Turning to the opposition of the noble Lord, Lord Faulks, to Clause 82 standing part of the Bill, I think he is well known for being very expert in this area and I pay tribute to that. But Clause 82 implements important recommendations made by the Independent Inquiry into Child Sexual Abuse. The noble Lord raised concerns during Second Reading and again during this debate that the reform is unnecessary and would lead to greater uncertainty and litigation, but, with respect, I disagree. The inquiry looked at this in great detail. It found that the limitation period for civil claims itself acted as a deterrent to victims and survivors—just the very fact that it existed. The inquiry also found that it acted as a deterrent irrespective of the existence of the discretion in Section 33, and the inquiry therefore found that Section 33 did not provide sufficient protection for victims and survivors.

The inquiry found that the regime acted as a barrier to claimants at three stages: first, solicitors' willingness to take on claims, because it can make it really hard for them to find a lawyer to represent them; secondly, the settlement and valuation of claims, because it can lead to victims accepting lower settlements because of uncertainty about the limitation issue; and, thirdly, the hearings themselves in relation to the limitation period, the effect of which on the claimants was described as "intrusive and traumatic".

I think the noble Lord will find that it was not this Government who said they were not in favour of these recommendations; it was actually the previous Government. This Government accepted the recommendation in February of this year and are satisfied that Clause 82 is necessary and proportionate. The courts are perfectly capable, as the noble Lord, Lord Blencathra, said, of deciding when a claim is inappropriate or unfair and should not succeed. This Government and my department put victims at the heart of everything we do. This is why we believe that this reform is necessary and important for victims and survivors. On that basis, I invite the noble Lord, Lord Davies, to withdraw his amendment and I hope the Committee will join me in supporting Clause 82.

Lord Faulks (Non-Afl): The noble Baroness is quite right that the response to IICSA came from the previous Government. It was written by the Ministry of Justice and signed by the noble and learned Lord, Lord Bellamy. While not in any way undermining his contribution to whatever was produced, I suspect that it was the work of government lawyers, approved by him. It was a careful study of the law by reference to, for example, the operation of Section 33 of the Limitation Act 1980. IICSA was not a Law Commission or law reform body, and it covered a huge area of inquisition. It had to cover so many areas that many people doubted whether it had any utility. I am not suggesting that, but it was not primarily concerned with civil claims as such. What I would like to ask the noble Baroness is this: Section 33 has been in operation since 1980. I can tell her, and I am sure she will accept from me, that it is used a great deal by many claimants represented by firms of solicitors. Very often, limitation is not even considered, because as she quite rightly says, very often somebody will delay a considerable time before bringing a claim, and quite rightly so. But why, I ask, is she satisfied, given the wideness of the discretion, that Section 33 does not work as it is?

Baroness Levitt (Lab): My Lords, it is no answer to say that another Government considered it carefully: different Governments have different priorities. I am not sure that that is going to come as a great surprise to the noble Lord. As for Section 33, this Government are satisfied that it does not provide sufficient protection.

Lord Davies of Gower (Con): My Lords, I shall be very brief in my response. As I say, this was a probing amendment, and I am grateful to those noble Lords who have contributed to this short debate. I thank the Minister for her clarification. I am content with the Government's assurances, and I therefore beg leave to withdraw my amendment.

Amendment 289 withdrawn.

Clause 82 agreed.

Amendment 290

Moved by ***Baroness Bertin***

290: After Clause 82, insert the following new Clause—

"Amendment of Protection of Children Act 1978

(1) The Protection of Children Act 1978 is amended as follows.

(2) In section 1(1)(a) (indecent photographs of children) after "child" insert "or a person who appears to be or is implied to be a child".

(3) After section 1 insert—

"1ZA Offence of encouragement to sexual activity with a child or family member

(1) It is an offence to produce or distribute any written material, visual representation or audio recording that glorifies, advocates or counsels sexual activity that would be an offence under the Sexual Offences Act 2003 either with—

(a) a person under the age of eighteen years, or

(b) a family member, where "family member" has the meaning set out in section 27 (family relationships) of the Sexual Offences Act 2003.

(2) After section 7(9) (interpretation) insert—

"(10) When determining under section 1 whether an indecent photograph or pseudo-photograph is of a person who appears to be or is implied to be a child, reference may be had to—

(a) how the image is or was described (whether the description is part of the image itself or otherwise);

(b) any sounds accompanying the image;

(c) where the image forms an integral part of a narrative constituted by a series of images—

(i) any sounds accompanying the series of images;

(ii) the context provided by that narrative;

(d) the overall context in which the image appears, including but not limited to, the setting, the conduct and appearance of the depicted person or persons, and any other relevant factors.".".""

Member's explanatory statement

This amendment makes a series of amendments to the Protection of Children Act 1978 to extend the offence of making an indecent photograph of a child to cases where the child depicted is an adult

and creation of a new offence of producing or sharing content that advocates and celebrates child sexual abuse including text shared on internet forums and pornography websites.

Baroness Bertin (Con): My Lords, I shall speak also to Amendments 291, 292, 298 and 314 in my name and supported by my friends the noble Baronesses, Lady Kennedy, Lady Kidron and Lady Benjamin, and the noble Lord, Lord Clement-Jones. These amendments have the support of many charities, including Barnardo's, the Internet Watch Foundation, End Violence Against Women and Girls and the Lucy Faithfull Foundation, as well as, very importantly, the Children's Commissioner.

The central mission of this group of amendments is to close the gap between the law governing offline and online pornography and to bring long overdue scrutiny to an industry that has operated with impunity for far too long. The review I led for the Government showed me corners of this world that you simply cannot unsee. Online pornography is now so extreme and pervasive that it does not just reflect sexual tastes; it shapes them. It normalises violence, distorts intimacy, grooms men and boys to perpetrate sexual violence and has driven child sexual abuse as well as child-on-child sexual abuse. Content titles regularly use words such as "brutal", "attack", "kidnap" and "torture". Incest is fast becoming the most frequent form of this violence.

With 40% of young women reporting being strangled during sex, the link between online violence and offline harm is undeniable. According to the Children's Commissioner, a 13 year-old boy is likely to have viewed incest, rape and strangulation porn before his first kiss. Adding to this, sexual dysfunction is rising among young men, who find real intimacy less stimulating than online extremes. Many now speak of addiction that has ruined their lives and prevents them forming real, lasting relationships.

4 pm

Last week, Lady Elish was unequivocal in part 2 of her inquiry into Sarah Everard's death about

"the need for a united response to online, public and private … violence against women".

She has also made it clear that the Government must read her recommendations in tandem with the online pornography review, and that she is deeply concerned that harmful content that would be illegal offline remains unrestrained online. Wayne Couzens openly paraded violent, degrading porn to police colleagues. Free-to-view content was found on all his devices when he was arrested. A casual acceptance of violence and unchecked, dangerous predatory behaviour led to Sarah Everard's murder. There is no doubt in my mind that porn played its part. When I met Gisèle Pelicot's daughter, Caroline Darian, she was certain that extreme online pornography had emboldened her father and his accomplices to carry out their hideous crimes.

The review I wrote for the Government is an oven-ready plan to address many of these issues. They have still not formally responded to it and have committed to only one of the 32 recommendations. It is suboptimal that we have to use amendments to this Bill to push through some of those proposals. It would be far better to have some central leadership and a co-ordinated strategy that works across government, bringing together departments such as DSIT and the Home Office on these issues. It strikes me that they are still completely siloed on this. I am determined to not look back in 10 years and wish we had done more. I hope this Government will now be driven by this same determination. I thank the Minister for the meeting last week; I know that she feels strongly about this issue.

Amendment 290 addresses a fundamental legal loophole that the law currently allows: it is to allow an adult to mimic a child in pornographic content and for that content to remain lawful online. The amendment would strengthen the Protection of Children Act 1978, extending the offence of making an indecent photograph of a child to include pornographic material depicting a child, where the role is played by an adult performer.

When my review team and I met the British Board of Film Classification, we were shown videos legally available on major sites—content that no reasonable person could argue did not depict child sexual abuse scenarios. I am not talking about a 40 year-old woman dressing in a school uniform, but about a tiny little girl in a child's bedroom, surrounded by dolls, assaulted by someone explicitly described as her father—on mainstream porn sites. The title made the storyline unmistakable: "Daddy breaks into his daughter's bedroom". The actor was over 18 and because she mimicked a child, the content remained legal online. The current law applies to pseudo-images, which include AI-generated images. We are therefore in the strange situation of, quite rightly, prohibiting an AI-generated video depicting sexual activity with young-looking girls on the basis that it normalises and promotes sexual abuse, but a very similar video of real actors who look like young girls is allowed. This loophole should be closed.

To be clear, this is not niche content on the dark web. As a team, we looked for further evidence of this kind of content. It was everywhere, including on the home pages of mainstream sites, searchable in seconds, with titles such as "Daddy makes his daughter happy before school". Vast amounts are marketed as teen porn or incest porn, using performers who look prepubescent or are styled to look underage, with lollipops and dolls.

This material sexualises children, normalises them as objects of gratification and fosters a sexual interest in children. Often, these videos have had millions of views and clicks, thus drip-feeding the idea that it is acceptable and normal. Evidence from law enforcement shows that repeated exposure to such content can escalate to viewing illegal child sexual abuse material, and, in some cases, to offending online or offline. The BBFC is categorical: this material will be refused classification offline. Yet online it persists. The fact that 2024 was the worst year ever on record for cases of child sexual abuse images makes this change even more urgent. Other jurisdictions—New South Wales, Ireland and Canada—already criminalise this harm, and we should align with those international standards.

Amendment 290 would create a new offence of producing or sharing material that advocates or glorifies child sexual abuse, including text on forums and pornography sites. This again draws on Canadian law and parallels our domestic prohibition on glorifying terrorism. We rightly outlaw the glorification of terrorism; we must also outlaw the glorification of child sexual abuse, as the law as it stands is not clear.

Let me add a human context. I spoke recently to a brave young woman whose world was turned upside-down when police uncovered her father's posts on a well-known chat site describing and inviting others to describe what he claimed he had done to his daughter since she was six. The police intervened and arrested him, protecting the family, but on further investigation they found no physical abuse and did not charge him for fantasising and glamorising imagined abuse. This is unquestionably abusive behaviour. The law in this area is unclear and we need unambiguous law that makes it easier for the police and the CPS to charge and, ultimately, for prosecutions to happen. By closing this loophole, we could give the police more preventive powers and, importantly, place obligations on platforms and chat sites to stop this content and dialogue at source. Again, it was a very easy to access chat site encouraging this.

Amendment 291 would extend the definition of extreme illegal pornographic images to include depictions of incest, as proscribed by the Sexual Offences Act 2003. Incest pornography is now particularly prevalent online, often stylised as violent scenes between father and daughter. That would be refused classification offline. We have a clear precedent for this. The Government have already acted to capture depictions of strangulation in pornography, which I am delighted about and which we will come to shortly, recognising that the original drafting allowed this material to proliferate unchecked. This logic applies here. Research shows that incest-themed content is among the most recommended to new users on popular platforms—another stark example of an algorithm encouraging harmful content.

This amendment also captures titles and dialogue, recognising that words can advertise, normalise and accelerate harm. Pornography titles accompanying content matter a great deal. They are the main route by which this material is found and can be as violent as the content itself. Amended law must capture titles and searchable text, obliging search engines to bar such content. At present, too many are falling short. How can it be right that my team can easily find titles on Google such as "Stoned girl sexually abused" and "Good little girl allows abusive father to pee on her" on the first search page?

Amendment 314 seeks to bring wider parity to how online and offline pornography are regulated. Since 1984, legislation has existed to regulate offline content and media. This legislation specifically prohibits offline content that the British Board of Film Classification would find unsuitable for classification—even for the R18 category —on video, DVD and Blu-ray. The prohibited material, as set out in Section 368E of the Communications Act, includes: material that is in breach of criminal law or created through a criminal offence; non-consensual sexual activity, including rape or sexual violence, particularly when presented as appealing or inviting viewer complicity; real or simulated acts in a sexual context likely to cause serious physical harm, including penetration by foreign objects or dangerous sado-masochistic activities, outside a clearly consensual role play; and material likely to encourage interest in sexually abusive activity.

These prohibitions reflect the long-standing principles of harm reduction and public protection. They were strengthened and upgraded following the horrific murder of Jamie Bulger, yet these safeguards apply only to physical media. Online platforms, which now dominate the pornography market, operate outside this framework. As a result, content that would be refused classification online—depictions of torture, incest pornography, highly abusive misogynistic content, and material sexualising children, as previously described—is freely available online. This disparity is indefensible. Amendment 314 would therefore do four things: import the BBFC's prohibited content standards into online law; create a criminal offence for publishing such material online; empower enforcement through fines of up to £18 million, or 10% of global revenue, ensuring compliance even without prosecution; and mandate regulatory oversight, requiring the Secretary of State to appoint enforcement bodies within six months with powers to impose service and access restriction orders.

The last point is crucial. We need a provision in the Bill for a body separate from Ofcom but which works closely with it to proactively conduct spot checks and audits on pornography platforms and social media. Search engines must also be held accountable. Furthermore, there needs to be some kind of additional public reporting mechanism that can accelerate actions against these sites. My noble friend Lady Kidron spoke brilliantly on this last week.

I recently found a porn site with no age verification barriers at all, dedicated to rape porn. Who do I report this to? I cannot. It may be inconvenient for the Government, and indeed Ofcom, to acknowledge this, but, without a deeper infrastructure in place to ensure enforcement and implementation, real change will be hard to achieve. Mastercard and Visa stopped payments overnight when Pornhub was found to have millions of child sexual abuse images freely available. Within 24 hours, the images were gone. They will be obliged to do the same with other types of harmful pornography if the Government make these changes. Better law and regulation will give the ancillary services—payment providers, advertisers and investors—propping up this industry a proper road map to follow. Once the money starts getting affected, change often miraculously occurs.

This amendment is about closing a glaring loophole and ensuring that the same protections we have enforced for decades offline apply in the digital age. It is about saying that material that is too harmful to sell in a shop should not be freely available on a smartphone.

Amendment 292 introduces essential safeguards around consent, age verification and accountability in the online pornography industry. First, it requires that no pornographic material is published unless every individual featured has given explicit consent and is a verified adult. For existing material, platforms must confirm that all individuals are adults. This will be highly inconvenient for the industry and may well disrupt the user-generated model of porn, but this feels like a very long overdue requirement.

Secondly, it recognises the right to withdraw consent. If a person revokes consent in writing, platforms must remove that material within 24 hours. Consent as a vulnerable 18 year-old can be very different from when you are 30, and there should be a mechanism to withdraw that image. With hashtagging technology, this is all completely doable.

[Baroness Bertin]

This amendment is about preventing exploitation and abuse. Some platforms claim they have made age checks, but we have to take their word for it. Can you imagine a world where a multibillion-pound business just said to the auditors, "Trust us, the accounts are fine"? Why should this industry enjoy such light-touch self-regulation and no paper trail, especially when its commodity is real people?

Finally, Amendment 298 addresses the possession and use of software designed to create new digital images. These deepfake generators are fuelling a rapid rise in image-based sexual abuse. I pay tribute to the noble Baroness, Lady Owen, for leading the way on criminalising the making and taking of deepfake images. That work is vital, but we must go further, because the tools themselves are the accelerant. This amendment makes it an offence to intentionally possess, obtain or store software the primary purpose of which is to create or alter sexually explicit or nude images. I am open to working with Ministers on drafting to achieve the right balance, but the principle must be clear: the technology itself must be outlawed.

In conclusion, these amendments do not police private sexual behaviour, nor do they seek to ban porn. Instead, they aim to regulate an industry that has evaded scrutiny and is causing demonstrable harm: normalising violence, sexualising children and enabling abuse. The law must evolve to meet these challenges and put proportionate guardrails back in place. I beg to move.

Baroness Benjamin (LD): My Lords, I have put my name to Amendments 290, 291 and 314. I also support Amendments 292 and 298 in this group, all in the name of the noble Baroness, Lady Bertin, whom I hold in high esteem.

Before I set out some remarks in support of these amendments, it is difficult to comprehend why we are back here again in this House, eight years after debating the issue raised in the amendments in this group by me and other noble Lords. It feels like déjà vu.

However, there is one crucial difference: we now have the insight and recommendations of the comprehensive review of pornography regulations which I was promised by the previous Government and which has been undertaken by the noble Baroness, Lady Bertin. I commend the noble Baroness for her review, which sets out clearly why these amendments are needed.

4.15 pm

I will speak first to Amendment 314, which seeks to ensure that pornographic content hosted online is subject to the same regulation that applies to content distributed offline. This is by no means a new concept. In 2017, following the debate on the Digital Economy Act, the then Government published the internet safety strategy Green Paper, which stated:

"What is unacceptable offline should be unacceptable online".

During the passage of the Online Safety Act, I pointed out that, despite the Government's commitment in 2017 to address the disparity in the regulation of online and offline pornography, material that is extreme and prohibited offline was still widely available online. I and others tabled amendments that were similar to Amendment 314 before the House today, yet we find ourselves debating this issue once again.

Barnardo's—I declare an interest as vice-president—and CEASE have long called for online pornography to be regulated to the same standard as it is offline. Content involving strangulation, incest and adults dressed as children, as well as that involving trafficking and torture, is rightly illegal offline, yet these images and videos remain widely accessible online. This inconsistency is indefensible; it is a stain on our society. Amendment 314 would make it a criminal offence to publish, or to facilitate the publishing of, prohibited pornographic material online, bringing digital distribution in line with the strict safeguards we already apply offline. This is common sense and should be accepted by the Government.

The depressing fact is that the internet is still full of material that would not get a certificate for sale or distribution in the offline world. Any platform that fails to comply with this proposed new law would be subject to financial sanction and/or business disruption measures. The Communications Act 2003 gives statutory powers to Ofcom to regulate offline content on the basis of the British Board of Film Classification guidelines. Over many years of operating this law, the BBFC has established clear standards and guidance: the guidelines are well established and easily understood. This amendment seeks to ensure that online platforms are subject to the same standards and guidelines for what they publish and host online. This would ensure that online platforms prevent material that depicts rape, incest or non-consensual sexual activity being published on their platform, and that any material published by a user of that platform that meets the criteria for prohibited material is removed.

The harm of violent online pornography is not abstract or without consequence: men who watch violent online pornography are more likely to be violent towards women and girls. If the Government want significantly to reduce violence against women and girls—which they claim is a priority—a starting point would be to regulate online material to ensure that all violent material is removed and that laws online and offline are regulated in the same way.

The other amendments in the name of the noble Baroness are also critical to reducing violence against women and girls. This is why I support Amendments 290 and 291, which seek to ban pornographic content that depicts incest or objectifies children through adults dressing or behaving as minors. Evidence from the Lucy Faithfull Foundation shows that consuming such content can lead users to seek out illegal child sexual abuse material and potentially offend against children, online and offline.

This is not just harmful fantasy; it is a dangerous distortion which sends the message that child sexual abuse is acceptable, or even desirable, and often acts as a gateway to illegal activity. The law must make it clear that there is no place for content that sexualises children and normalises abuse.

I support Amendment 292, as it seeks to ensure that platforms undertake age and consent checks for performers. Again, this is a critical amendment in protecting women and girls. User-generated content dominates pornography platforms, yet this content is often uploaded with little or no verification. The amendment would ensure that every individual

featured in any content is an adult and has given consent, and that, crucially, women are given the right to withdraw that consent at any time and have the content removed.

I also support Amendment 298, which seeks to ban nudification apps. These AI-powered tools are being used to create non-consensual sexual images, targeting women and girls. The Internet Watch Foundation reported a 380% increase in AI-generated child exploitation imagery between 2023 and 2024. If we do not act now, the technology will continue to outpace regulation, leaving victims unprotected. The Minister in the other place said that the Government are "actively considering" what action is needed to ensure that any intervention in this area is "effective", and will "provide an update" in due course. I hope that the Minister here today will be able to give us that update.

In conclusion, how many more times will we debate these issues? These amendments are not radical; they are reasonable, evidence-based and urgently needed. We cannot allow the increase in harmful online content to continue. This must stop. I urge the Government to support these amendments, which are the foundation of a safer digital world. If we fail to act, we risk legitimising a culture in which abuse is normalised and young people grow up with a distorted understanding of healthy relationships. As I always say, childhood lasts a lifetime, so let us act now to ensure that every childhood is free from abuse and victimisation. I look forward to hearing the Minister's response.

Baroness Kidron (CB): My Lords, it is a privilege to follow the noble Baroness, Lady Benjamin. I share much of her frustration about us being here discussing this again and hearing that litany of powerful images—that I would rather unhear—from the noble Baroness, Lady Bertin. I do not propose to add to them, except to say that what the noble Baroness has said on the record, in *Hansard*, is not an exaggeration or cherry-picking; it is normal, and the House must consider whether that is the "normal" we would like to live in.

I have been proud to add my name to the noble Baroness's amendments. I commend her on her work on the pornography review, which I know was an enormous effort and, as I understand it, quite a catastrophic personal experience. I also want to take the opportunity to commend the Government on recognising the issue of strangulation. I know we will come to it, but I wanted to mention it in this group, because it is this relationship between what happens online and how that then impacts offline that we have to concentrate on. A few weeks ago, I was with a group of very senior medical professionals, and one consultant radiologist talked about how post-mortem guidance is being changed to check for strangulation as a cause of death among young women. That is chilling. The entire room was chilled. It is an indictment of how prevalent and serious the consequences of violent pornography are. We must not hide behind thinking this is happening in another space; this is the space in which people are now living.

On the same theme, some time ago I was contacted by a lawyer who told me that she dreaded freshers' week. Each year, an increasingly long line of barely adult young men would come through her door facing charges of acts of sexual violence which mimicked behaviour they had seen online. A wealth of talented young women are now traumatised at a crucial point in their life, and a litany of young men, probably equally talented, are now sex offenders. These lives are being ruined.

The amendments tabled by the noble Baroness are sensible—I believe that was the word the noble Baroness, Lady Benjamin, used. I do not know whether they are radical; I hope they are, and I hope they solve the problem, but they are sensible solutions. They seek to close the gaps, and have taken learnings from other jurisdictions, which is crucial. The whole world is tackling this, and we must learn from what other people understand. We do not need to make it all up ourselves. "Not made here" is about the worst thing that we keep on seeing in politics, particularly in the online sphere.

I support all the amendments in this group, and I wanted briefly to mention just two of them. First, Amendment 298 would prohibit ownership of software which we often call "nudification" apps. A Teacher Tapp survey last week found that one in 10 teachers were aware of pupils creating "deepfake, sexually explicit videos", and the safeguarding lead who was quoted warned that deepfakes and nudifiers

"feel like the next train coming down the track".

I know a lot of safeguarding staff, and this is what they are saying. Can we, as a Parliament and as a House, be ahead of the train coming down the track rather than waiting for it to come and ruin our schools?

The Children's Commissioner points out in her briefing, which supports these amendments wholeheartedly, that nudification technology is harming girls. Even if they have not been directly targeted by the tools, girls report withdrawing from the online world—for example, not posting pictures of their full faces to reduce the chances of their being transplanted on to a naked body. Can we not, as a House, stand up for women in the public sphere? This is not okay. It is so regressive to look at a technology that silences young girls' participation in this new world.

Rightly, this amendment does not create an offence for under-18s, so I have another request of the Government: that they accept the amendment but also commit to adopting a broader strategy to tackle the deepfake crisis in schools before it is too late.

Last week, we had a debate in which the Minister, the noble Lord, Lord Hanson, said that this issue sits with DSIT and not the Home Office. My understanding is that the issue I am addressing could sit with DSIT and the DfE. However, the Government as a whole have a commitment to children, and as a whole they have committed to halving violence against women and girls. I will do a shout-out here and say that men do experience violence, but it is primarily experienced by women and girls. So, unless the Government start to act more swiftly on our concerns about technology-facilitated sexual abuse, they will be failing in both their responsibility to children and their commitment to women and girls.

Amendment 314 seeks to create parity between laws that regulate pornography online and offline. It is a perennial cause of harm that the tech sector lacks accountability. This lack of accountability, the lack of

[Baroness Kidron]
parity, seen through the lens of pornography, is the very definition of tech exceptionalism. The laws that apply to the rest of our lives in society do not apply in the technological sphere, protected by tens of millions of lobbying dollars. This is at the heart of the problem that we are discussing. Pornography has been a major engine of the tech sector. It is worth billions of dollars, responsible for millions of downloads and a significant driver of online traffic.

4.30 pm

There is a reason why OpenAI recently announced that ChatGPT would permit erotic content for verified adults: it is a money-spinner. Tech-delivered online pornography has changed the sexual appetites of men. I attended one meeting in which a survivor of sexual violence said that what he saw online "gave my abuser the idea and tacit permission to hurt me". We need parity. Parity is what the amendment demands.

Finally, I want to say something to the Government. The amendments that we debated in the previous group in my name about children; the amendments that we will shortly get to in the name of the noble Baroness, Lady Owen, about intimate image abuse; and this set of amendments should be seen as one. This is the commitment that the Government made to women and girls. I hope that the Government Benches, having given us so much support in the past, will not vote against these amendments en masse on Report—because we will be back unless the Minister has something fabulous to say today.

Baroness Kennedy of The Shaws (Lab): My Lords, when I became a practitioner at the Bar as a young woman in the late 1970s, freedom of expression was regularly used as the excuse to justify sometimes horrific porn. When there were discussions about this among lawyers, it was almost invariably said that women were being prudish and did not understand that erotica—that was always the word used, rather than pornography—was rather benign and had no effect on behaviour.

It has taken decades for that viewpoint to be challenged and research to be done to show the links between behaviours and exposure to extreme pornography—not that it has to be that extreme. Young women at the Bar tell me now that almost invariably when the computers of people who are brought to court for allegations of rape and sexual violations of all kinds are examined, they are full of pornography. The link between pornography and serious violation of women is now well established.

It is not about benign erotica. We are talking about the ways in which we have added to the menu of possibilities, often giving guidance to young men on how to perform sexually—in a way that does not involve any kind of tenderness and intimacy but is about objectifying women's bodies and dealing with them in ways that are abusive, not hearing resistance or "no", and never finding out whether something is acceptable.

The last time I wrote a book about the law was very interesting. This was 2018, and it was then republished a few years later after the Harvey Weinstein scandal. The book was being put on to audio, as nowadays happens, and I was doing the reading myself. A young woman was the technician in the sound lab where this was being done. There was a piece of the book about pornography, the way in which it was impacting on sexual offending and the serious influence that it brings to bear on the behaviour of many of the men who were coming before the courts.

She said to me, "I watch pornography every single day", and I asked why. She said, "Because I wanted to know how to do sex—I wanted to know how it was done—but I've now become addicted to it". It had replaced for her the possibility of having real sexual relationships. It was her confiding, in a sort of confessional box way, and saying, "What can I do about it to change my life? I find that it's the only thing that can give me relief". It was quite a shock to me as someone who thinks they know most things that happen under the human condition's spread of behaviours. Here was this young woman, probably only about 18, describing how she was now addicted and how she had come to do it because boys felt that she was no good when it came to sexual behaviour.

I just want to say why I readily support the amendments from the noble Baroness, Lady Bertin, to whom I pay tribute. Over the years I have been exposed to pornography because it was part of the evidence in cases that I was doing. In war crimes, increasingly, there is on the phones of young soldiers all across the world a high level of pornography, and it leads to really vile and terrible abuses of women in conflict. For looking at the stuff that she has had to look at and the experience that she has had to bear, I really feel that we owe the noble Baroness, Lady Bertin. People do not realise the toll that can take on somebody.

I was in chambers with the noble and learned Lord, Lord Thomas, the noble Lord, Lord Carlile, and the famous writer Sir John Mortimer, who wrote the Rumpole series. John Mortimer was a great believer in freedom of expression, and he had done a number of cases around literature and freedom of expression in rather explicit novels. He then was pursued by the porn industry and offered great sums of money if he would act in porn cases, which on occasions he did. He said he used to take his glasses off because it was the only way he could live with looking at the stuff he was having to watch.

We were all offered the opportunity of inheriting his porn practice when he left the Bar, and I have to tell noble Lords that none of us was very interested in doing it because of the toll it takes on the human imagination. You want a mind that is not contaminated by this stuff in your expressions of love and intimacy, and men at the Bar who are doing this stuff say that there are times when they cannot dismiss it. We have to learn from the reality of this. This is poison; it poisons our children, and it is probably poisoning many of the menfolk who sit in this House. We have to find ways of dealing with it—it is going to be difficult.

I have supported the amendments from the noble Baroness, Lady Bertin, including the one on the mimicking of children. I can tell noble Lords very clearly that that is a real problem that we have currently. There is the business of depicting incest and the poison that it brings into households and so on. We discussed it only last week, and it disturbed so many people when the

noble Baroness, Lady Kidron, described bots now doing that and the seeming inability to prosecute because it is not a human who is at the other end of it. Then there is business of not verifying age adequately. These are serious problems that we have.

One of the things that is inhibiting the response of jurisdictions, and I think ours might be one of them, is that we are concerned not to lose the confidence of the tech bros who are the billionaires making so much money out of many of the ways in which new technology exploits this and makes an incredible amount of money out of it.

One of the great Trumpian boasts is that our world should not be inhibited by regulation, but there are some areas where we need regulation and this is most definitely one of them. All of us need to come together and not feel that we should be obeisant to the American way.

I urge the Government, as sometimes happens with Governments of all complexions, not to make this an example of resistance to amendments that have been promoted largely by the other side. The noble Baroness, Lady Bertin, has the support of women from around this Committee and from men. I ask the Government please to listen to these submissions; they are made because of the real detriment to our society and quality of life that is created by virtue of this stuff.

Not very long ago, I did a report for Scotland on sexual harassment in the street and the public square. It was very clear that disinhibition online leads to disinhibition in other places and in the public square. It is why young women out for an evening are suddenly abused by men coming out of pubs, asking to have sex with them and talking about the size of their breasts or their behinds, and speaking to women in the most revolting way. The women were saying, "I go home feeling degraded. I feel that I do not have the equality and dignity that are promised to me in this new world in which we like to imagine that men and women will be treated as well as each other".

I urge the Committee to go with Amendment 314 on the parity of pornography online and offline, because we have to start regulating this stuff. If we do not do it soon, we will pay an incredible price.

Lord Carter of Haslemere (CB): My Lords, I heartily support Amendment 314 and the others in this group. It is shocking that there is a disparity in the ways that online pornography and offline pornography are regulated. It rather makes a mockery of regulation in the offline sector, since anyone can circumvent it by watching material online that is banned offline.

As we have heard, material that is prohibited offline is prolific online. This includes content that depicts and/or promotes child sexual abuse, incest and harmful sexual acts such as sexual strangulation. The fact that the existing offline system of regulation has not been applied to the online world is a symptom of legislation not keeping pace with technological advances in the online world. Now is a golden opportunity to put that right.

Mainstream pornography sites host a vast amount of harmful content. Not only is that an inducement to participate in serious criminal activity but young people—boys and young men in particular—who access it are growing up with a totally warped view of what constitutes a normal, loving relationship. This surely risks seriously damaging their prospects of forming long and meaningful relationships in the future. We owe it to our younger generation to put this right and protect them from this horrific material.

Why on earth is access to such material not regulated effectively when exactly the same content offline is? It shows a naivety about the content and extent of damaging online material and the ease with which young and easily influenced minds can access it. It is shameful that there is no effective regulation of the age at which such material can be accessed. It needs to be put right urgently, and I urge the Government to seize this opportunity and accept Amendments 292 and 314 and the others in this group. Is there anything that we debate in this Chamber that is more important than protecting our children?

4.45 pm

Baroness Boycott (CB): My Lords, I support all the amendments in this group, so well put forward by the noble Baronesses, Lady Bertin, Lady Kidron, Lady Kennedy and Lady Benjamin, but I particularly want to say a few words about Amendment 298 in the name of the noble Baroness, Lady Bertin.

I have been really alarmed by this. I was first alerted by my friend Laura Bates talking in her book about the "nudify" apps and how young children can be when they can get targeted—as young as eight or nine—and how this can happen to them in school, where they can be completely unaware and, suddenly, there is a picture of them naked circulating around, and a lot of girls want to drop out of school because of it.

It is not an accident that this is happening. It is driven by money, commerce and capitalism. It is not in any way inevitable that it happens. Something that is made by man—probably by a man, in this case, but maybe by a woman—can certainly be put right by government and by all of us. It is the result of a design choice, a market choice and a policy choice, and we can change it.

These apps are designed to strip girls' photos and create sexualised images of them, often in seconds. They are incredibly easy to use, quite terrifyingly. I challenge anyone in this House who has not done it just to type in, "Can I have a nudify app?" You will get it in a minute. My great niece, who I work with, did it to herself, and the super weird thing about it is that it does not give you the body of Claudia Schiffer or Kate Moss or something that you are obviously not; it gives you the kind of body that you have.

The reality of it is very stark and horrible. Girls are harassed, threatened, coerced and manipulated before they even really understand what is happening. There is one major app that produces 200,000 fake nude images every day, and we are on track for 8 million of these deepfake images every year. They are an entire industry, which is functioning somewhere, taking money and doing this to our children. The police cannot act until after the harm has occurred, and schools cannot act pre-emptively. The platforms claim that they are not responsible because this is a tool, and it is not

[Baroness Boycott]
them. It is passing off the responsibility. They exist just to facilitate sexual abuse—for which, at the moment, very few people have to pay a price.

I would also like to speak about something that has happened but has not been mentioned very much in this debate. I am an ambassador and patron of a group called The Vavengers, which seeks to stop vaginal mutilation. The person who runs it is Turkish, and she has noticed now that the primary form of cosmetic surgery in Turkey is young women—though not all of them young—going there to have their vaginas reconstructed to look like the vaginas that you see in pornography, which look like those of 13 year-old girls. They are going to Turkey to have their labia cut off. Sema, who is the child of a slave and an extraordinary woman, says you can always tell when you are on the return plane from Istanbul because there are a lot of young women fidgeting because they are in pain. It seems to me that this is an extension of the world that we have arrived in and allowed to happen. It is shocking.

My granddaughter is three. I look at her and think that, in four or five years' time, she could be the victim of this. As those in this House know, I got into this 55 years ago. If anyone had told me then that the day would come when I would have to ask for someone not to be able to have an app that would take my granddaughter's clothes off and make her a neurotic, unhappy young woman because she is sexually not like the things she sees in pornography, and with my grandson, who is also three, going through the kind of things that I think young men do, I would say that we should be damned ashamed of ourselves. All of us women in this House, of different ages, have fought long and hard through the years to get where we are, and we and this Government owe it back to the next generation of children. I am very grateful to all the younger women such as the noble Baronesses, Lady Bertin and Lady Owen, for the work they have done. I can only say that I wish that I was not on this journey with them and that it did not exist.

Baroness Shawcross-Wolfson (Con): My Lords, I too support my noble friend Lady Bertin's amendments and I will particularly talk about Amendment 314. There is no debate about whether certain pornography is harmful. Parliament settled that question decades ago. There is no debate about whether it is right for our Parliament to ban harmful pornography. We already do. We are merely debating whether we have the determination to apply our existing laws to the latest distribution channels.

In the early 1980s, we saw a dramatic increase in video cassette recorders in the home and the subsequent emergence of video nasties. In that era, Parliament was quick to catch up to the latest technological innovation and, as we have heard, the Video Recordings Act 1984 was passed with cross-party support. As a result, pornography released on physical formats is and has always been strictly regulated in the UK. In 2003, Parliament extended those protections through the Communications Act to ensure that UK-based video-on-demand services, including those that specialised in pornography, could not distribute content that the British Board of Film Classification would refuse to classify. Amendment 314 simply takes the definition of harmful content in the Communications Act 2003 and seeks to apply it to online pornography, with a proper framework for enforcement. Some 41 years ago, we said that harmful content could not be distributed on video cassettes, 22 years ago we said it could not be distributed through video-on-demand services, and now it is time to close the gap in the law which allows it to be legally distributed on the internet.

Amendments 291 and 290 would ensure that incest material and depictions of child sexual abuse in online pornography are made illegal. My noble friend Lady Bertin and others have already outlined the immense damage that this content does. I welcome the Government's commitment to end the depiction of strangulation in online pornography, not least because it demonstrates their conviction that such material can be banned. All it requires is political will. I hope that the Committee will find that same political will to make pornography that mimics child sex abuse or portrays incest illegal.

I support Amendment 292, which would introduce a statutory duty for platforms to verify the age and consent of individuals who feature in pornography. It is the bare minimum we need to start tackling the rampant exploitation in the porn industry.

I conclude by returning to my starting point. In previous generations, when the technology advanced, from cinema to video and from video to streaming, Parliament acted. Today is no different. We have acted because, as the sponsor of the Video Recordings Act said 40 years ago, incredibly presciently:

> "Producers and suppliers of this base and debasing material have only one aim—to supply the worst elements of human nature for profit".—[*Official Report*, Commons, 11/11/1983; col. 522.]

We have acted because we have long known that violent porn—the type of pornography that depicts acts that are illegal in real life—is damaging. At no point have we as a Parliament or a society proactively debated and agreed to accept the type of abusive pornography that is now mainstream and widespread on the internet. No Minister from any Government has stood at the Dispatch Box and argued that the public have a right to watch scenes depicting incest or child sex abuse—I doubt any Minister would. No Minister has made the case that this material is harmless, and no Minister could, given the evidence we have heard today. We allow this material to proliferate not because we think it is harmless, not because we think it is a matter of free speech, but because we think it is hard to stop. It is hard, but I am hopeful. Today, we have a regulator which is beginning to make great strides in tackling illegal material online. We have a regulator with 40 years' experience of video classification, and we have a Government who, to echo the words of the Minister, are profoundly committed to halving violence against women and girls. Today, we have an opportunity to close this unconscionable gap in the law. I very much hope that we will do so.

Viscount Colville of Culross (CB): I too support all the amendments in the name of the noble Baroness, Lady Bertin, but I shall speak particularly to Amendment 298.

As other noble Lords have pointed out, these nudification apps are horrific and bring untold harm to the women and men who are victims of them. They

are so prevalent in schools that they are effectively normalised, shocking and shaming thousands of children on a daily basis, as my noble friend Lady Boycott has just pointed out. This week, Ofcom fined the app Nudify for failing to implement the mandatory age-verification measures under the OSA. Amendment 298, if accepted, would increase the pressure on Ofcom and the Government to close down all nudification apps, for children and adults alike.

As with the AI companion amendment in the name of my noble friend Lady Kidron, which was debated last week, this is yet another new technology that was not foreseen in the Online Safety Act. Despite your Lordships' best efforts to future-proof protections for users, new functionalities and technologies will always be created that will need your Lordships' attention. Nudification apps are just the latest in what will be a long line of new tech harms.

The problem is that, at the moment, there is a voluntary agreement for the big app stores not to sell nudification apps, but they are still being downloaded and are freely available on smaller app stores. Unfortunately, I do not believe voluntary protections by the tech companies work. Your Lordships have to look only at the Bletchley summit agreement in which tech companies signed up voluntarily to publishing the safety testing of new AI models prior to their release. Unfortunately, this has not happened in many instances, and in some egregious cases there is a failure to comply with this commitment.

Some AI models appear to have mundane uses but can subsequently be adapted for the purpose of nudification. These need to be safety tested to ensure that they cannot create harms—in this case, nudification—and, as has just been explained, the present voluntary agreement is not creating adequate protection. This amendment would go a long way to remedy this lacuna in the law and make the digital space safer for millions of people. I hope that it will be the first step in the Government bringing forward far-reaching AI safety legislation. I hope that the Minister listens to the voices from across the Committee and responds favourably to the proposal in the amendment for the creation of an offence of possession of nudification software.

Baroness Butler-Sloss (CB): My Lords, I support all these amendments for the reasons which have been given, and do not propose therefore to go through them. I want to give one extreme example of what happens when people watch a pornographic film and go on and carry out what the film did. I happen to have dealt with the case of one of the Bulger killers. I was told that they had watched a pornographic film belonging to the father of one of the two boys and then went out immediately and did exactly what the film did. That is why they killed the Bulger child. They followed the pornographic film. It did not, of course, stop them being convicted of murder. If that can happen to 10 year-olds then a large number of people are absolutely vulnerable to doing exactly what they watch. That is yet another reason why we should support these amendments. We have on the Front Bench, among the Ministers, those who are really caring. I hope, therefore, that they will not only listen to us but do something.

Baroness Berger (Lab): My Lords, it is a privilege to follow the noble Baronesses, Lady Bertin, Lady Kidron, Lady Benjamin, Lady Kennedy, Lady Boycott and Lady Shawcross-Wolfson, the noble Viscount, Lord Colville, and the noble and learned Baroness, Lady Butler-Sloss, all of whom who have made significant contributions. I do not wish to reiterate what has been said too much, but I want to speak today in support of Amendments 290, 291, 292, 298 and 314 in the name of the noble Baroness, Lady Bertin, concerning sexualising children, pornography that mimics abuse and nudification. I put on record my thanks to the noble Baroness for her important and vital work in this area, and recognise the toll it must have taken.

The consumption of violent pornography is having a devastating effect on adults and on the children being exposed to it. We have heard the research from the Children's Commissioner that indicates the average age at which children in the UK first see pornography to be around 13, but a substantial minority are encountering it significantly earlier, including in our primary schools. I should declare an interest: I have two primary-aged children. I have a daughter who is eight and a son who is six, and I am terrified at the prospect of either of them being exposed to this type of material. We know that this material is having an adverse effect on the physical, sexual and mental health of hundreds of thousands of people in our country. I want to touch on a couple of particularly concerning areas: pornography that mimics abuse and nudification.

We know that, for too long, companies hosting pornographic content have been allowed to host whatever material they like online, regardless of its harm. I echo some of the comments that have been made; it is extraordinary that we have a situation where it is not allowed offline, but it is allowed online and anyone can reach it from the phone that they hold in their pocket.

Amendment 290 would make it an offence to glorify or advocate for child sexual abuse. I do not know how anyone can question the aims of that amendment; it is critical. We heard about this on the previous day in Committee. It is both repulsive and shameful, but it is worth reiterating, that the UK is the third-largest consumer of child sexual abuse videos that are streamed from the Philippines. We rightly have laws on hate speech in this country. We must equally have laws that deal with this type of heinous advocation of child sexual abuse. This is not something over there; it is happening every single day in our country, and we have to take responsibility for it.

5 pm

Amendment 291 would similarly deal with the sexualisation of children by bringing depictions of incest into the law on extreme pornography. It is unfathomable that content depicting incest is so easily and readily available online. I believe that Amendment 291 is vital. It is a very straightforward amendment that would simply expand the definition of extreme pornography to include incest.

I support Amendment 292, which would ensure that no actual child is featured in pornography by making it a legal requirement for pornography platforms to ensure that everyone who appears in images and videos is over the age of 18. That seems like common

[Baroness Berger]
sense to me. We know that research shows us that child sexual abuse materials are easily found on mainstream pornography sites. Pornography users themselves have said that they have come across child sexual abuse materials easily on some of the biggest and most well-known pornography sites in the world. This amendment seeks to stop the proliferation of CSAM on those sites.

The amendment would also ensure that anyone who appears in pornographic content has given their consent for the content to be uploaded online. It is horrific to learn that it is all too common for videos of sexual violence and sexual assault to be uploaded on to pornography sites and sold as entertainment. There are many stories, but one story of a woman called Rose Kalemba really struck me and shows the urgent need for this amendment. Rose was just 14 when she was raped by two men at knifepoint, and she later found videos of that attack on Pornhub. Those videos had been viewed over 400,000 times, with grotesque and horrific titles. She repeatedly asked that website to take those videos down, but it refused. Instead, not only that site but others were making money off the horrific abuse that Rose suffered. There are many other cases; I point just to that one, but it reinforces why these amendments are so important.

I also add my support to Amendment 298, which would make the possession of nudification software illegal. We know these apps, and we have heard already that the apps and websites are now ubiquitous. They are even being marketed to and accessed by children. They are using generative AI to allow users to create this material, which is deeply harmful. Although the Online Safety Act criminalises the sharing of explicit AI-generated images, the apps themselves remain legal and widely available.

If noble Lords have not had the opportunity, I encourage them to listen to a really affecting podcast hosted by the *Guardian* called "Black Box". It charts the experience of women in a quiet town in southern Spain, Almendralejo. Girls right across the town, some as young as 14, discovered that their classmates had used a nudification app to generate fake nude images of them. It came to light when a local doctor revealed that her daughter had been targeted. These manipulated images were spread among their peers. It was causing harm, humiliation and emotional trauma; it was absolutely horrific.

We know that this technology can impact entire schools, colleges and communities, even geographic areas. From hearing women and girls speak about the trauma they experience when they are the subjects of deepfake pornography and nudification, this should be of serious concern to us all. The mental and emotional impact of this abuse on women and girls is so profound. The existence of these tools, and the constant threat of being a victim of nudification, is also having a chilling effect on women across this country. We know that the police have really struggled to prosecute users of apps such as ClothOff, which was one of these nudification apps, particularly as the technology spreads faster than regulations can keep up. I certainly believe we must do everything possible to make this type of technology illegal as a matter of urgency, and I support all the amendments in this group.

Baroness Sugg (Con): My Lords, like everyone else, I am in favour of all the amendments in this group. The noble Baroness, Lady Bertin, set out very powerfully and alarmingly the reality of what is happening online. I do not think that I need to go through all the amendments in detail—other noble Lords have done that very well—but I was very struck by what the noble Baroness, Lady Kidron, said about asking ourselves if this is the normal that we want to live in.

Do we want to allow content that makes child abuse appear acceptable? Surely not. Do we want to see websites trivialise and, indeed, promote incest as some form of entertainment? Surely not. Should we allow tools that enable the nudification of images, which are overwhelmingly used to target women and girls, and which, as we have heard, are being used in schools? Surely not. Instead, do we want to ensure that age and consent are clearly verified, and that consent can be withdrawn at any time? Yes, we do. Do we want to see a parity between what is prohibited offline and what is prohibited online? Surely yes.

That is what this group sets out to do. I hope that the Minister will accept all the amendments in this group to ensure that we have a new normal that we all want to see.

Lord Pannick (CB): My Lords, I too support these amendments. I will make two points that are additional to the powerful factors that have been addressed so far. First, I am very concerned to hear from the noble Baroness, Lady Bertin, that the Government have not yet responded in full to her review. Can the Minister tell us why that is, given the importance of the subject, and when there will be a full response?

Secondly, although I support the objective of Amendment 314 to apply the same principles to material online as to material offline, I am very doubtful that the way the amendment seeks to achieve this is sensible. The amendment seeks to incorporate into the Bill the definition of "harmful material" found in Section 368E(3)(a) and Section 368E(3)(b) of the Communications Act 2003. However, those provisions refer simply to the decisions and criteria of the British Board of Film Classification without specifying the criteria applied by that body. The criteria that that body applies, as set out in its guidelines, are helpful, but they are not categorical. For example, the guidelines say:

"Exceptions are most likely in the following areas",

and the noble Baroness, Lady Bertin, helpfully set out the factors that they have regard to.

This is perfectly appropriate in the context of the BBFC, from whose decisions appeals are possible, because the context is the licensing of an R18 video, which, of course, can only be sold in a licensed sex shop. However, we are concerned here with criminal law, which needs to be defined with precision so that people know exactly what cannot be published online. Therefore, we need a revised Amendment 314, which I hope the Government will accept in principle, to set out in specific terms what Parliament is prohibiting online, such as material that depicts conduct in breach of the criminal law and material that depicts or appears to suggest non-consensual sexual conduct. There may well be other categories; let us set them out so that everybody knows what is prohibited online.

Lord Nash (Con): My Lords, I support the amendments in this group. It is shameful that we have not yet legislated for parity between the regulation of online and offline pornography and that we are so very late in playing catch-up. What people can view online at a couple of clicks—including children often diverted to this sort of stuff without asking for it—is horrifying. As the report of the noble Baroness, Lady Bertin, stated, over half of 11 to 13 year-olds have seen pornography, often accidentally, and many have seen appalling images of choking, strangulation or sex where one partner is asleep, which is of course a non-consensual act—rape.

Therapists and front-line practitioners often describe a growing number of clients stating that porn consumption led them to child sexual abuse material. In the late 1980s, the Home Office commissioned a study that showed that fewer than 10,000 child sexual abuse images were available online. Today, it is conservatively estimated that, worldwide, the number of child sexual abuse images is 70 million to 80 million.

The internet has become a place where you can search for and find absolutely anything. If you cannot find it, you can create it yourself using AI and LLMs that are on the market, with no guard-rails. For example, generative AI can be and has been used to create pictures of someone's older self abusing their younger self, including, in one series of images, that self as an eight year-old abusing themself as a two year-old. This is not a problem of the dark web; this is available easily, at a few clicks, on popular social media sites. One social media site alone hosts and facilitates by far the greatest number of cases of sextortion and, in a number of cases, this has led to young people taking their own lives.

Bad actors are also exploiting generative AI to sexually extort. Com groups are driving abuse and exploitation behaviours that are unimaginable, including cutting competitions where the winner is the person who cuts the deepest. Other com groups are used by adults—bad actors—to groom the most vulnerable children and control them to engage in the most horrifying acts, including suicide. One survivor described watching multiple suicides in one group.

Children are using social media to create their own payment models for live sex shows, like the one the recent TV series "Wild Cherry" showed, but much worse. More than half of the 107,000 child sexual abuse and exploitation cases recorded in 2022—a figure that has quadrupled in the last 10 years—were committed by children. Pornography has to play a large part in this. The amendments of the noble Baroness, Lady Bertin, have the support of the NSPCC, the Children's Commissioner and many other organisations. We must listen to them. It would be completely morally irresponsible for us, as guardians of children, not to enact now.

In the last Committee session, the Minister promised me a meeting with the appropriate person and officials to talk about my amendment to allow new technology that is now available to block out child sexual abuse material. He indicated that officials were unsure whether this technology works. Since then, I have met with the providers of this technology again and they have assured me that it does work, certainly for young children, and that they are in active dialogue at a senior level with the head of the technical solutions team at the Home Office, DSIT, the Internet Watch Foundation, the NCA and GCHQ. I very much look forward to that meeting.

I should say that, although I do not think this will happen—I am fully aware of the rules—I have committed to a radio interview, so it is just possible that I may not be here to the end. I think I will be, but I apologise if I am not.

Baroness Owen of Alderley Edge (Con): My Lords, I pay tribute to my noble friend Lady Bertin for her hard work and her review. I fully support all her amendments, but will focus my remarks on a couple of them. I declare my interest as a guest of Google at its Future Forum, an AI policy conference, and my interest as receiving pro bono legal advice from Mishcon de Reya on my work on intimate image abuse.

On Amendment 292, it is vital that we always remember that consent is a live process, and our law should protect those who have featured in pornographic content and wish to withdraw their consent, no matter how long after publication. One content creator said, "A lot of the videos, I have no rights under; otherwise, I would probably have deleted them all by now", and went on to describe it as a stigma that will follow her for the rest of her life. Given the huge scale of the porn industry, it is vital that our law protects those who feature and offers them recourse to remove their content should they wish to.

5.15 pm

Amendment 298 would make it an offence to possess software to create or amend a digitally produced sexually explicit photograph or film. I was delighted that, in the data Act, we passed legislation that firmly placed in law a woman's right to choose who owns her intimate content. However, my noble friend Lady Bertin is right to highlight that it does not completely stop the use of the nudification apps that have rapidly proliferated with the dawn of AI. Research by campaign group #MyImageMyChoice found that one app processed 600,000 images in the first three weeks after its launch. It is important to note that this technology facilitates a disproportionately sexist form of abuse. The training data used is of women's bodies, meaning that the output is also of women's bodies.

As I have previously stated in the House, Internet Matters found that teenagers saw sexually explicit deepfakes as worse than real images, for reasons such as lack of autonomy and awareness of the image, the anonymity of the perpetrator and the ways in which the image may be manipulated to portray the victim. The Girlguiding survey found that 59% of 11 to 21 year-olds were concerned that AI may be used to create fake images of them online. The accessibility of this technology quite simply facilitates the gamification of abuse, and I believe that we must take this opportunity to put a stop to it.

Lord Clement-Jones (LD): My Lords, we have heard some very powerful and emotional speeches, and I very much hope that, having seen the unanimous support all around the Committee, the Minister will respond positively today. I wholeheartedly support the amendments

[Lord Clement-Jones]
tabled by the noble Baroness, Lady Bertin; I would have added my name to all of them, had there been space on the Order Paper.

This has been quite a dark debate, but as we heard from the noble Baroness, Lady Bertin, these are the direct, evidence-based conclusions of her independent pornography review. I very much welcome the questions the noble Lord, Lord Pannick, asked about the lack of a response to the *Creating a Safer World* review. It analysed 132,000 videos and clearly established an unambiguous link between the consumption of extreme pornography and violence against women and girls, both online and offline. As the noble Baroness, Lady Kennedy, said, it is poison; as the noble Baronesses, Lady Kidron and Lady Boycott, said, it is motivated by money; and as the noble Baroness, Lady Shawcross-Wolfson, said, it is the worst end of human nature for profit.

As we have heard today from all around the Committee, we are extremely mindful of the emotional impact on young women and girls in particular. I acknowledge that, in their later Amendments 294 and 295, the Government have made some progress on the possession and publication of pornographic images portraying strangulation and suffocation. The review by the noble Baroness, Lady Bertin, found that such content is rife on mainstream platforms and has normalised life-threatening violence, to the extent that 58% of young people have seen it, so I welcome the Government's moves to close that specific gap.

However, while the Government have addressed the issue of strangulation, these amendments address the remaining glaring legislative gaps identified by the review. We cannot shut the door on one form of extreme violence, while leaving the windows wide open for others.

Amendment 314 seeks to establish a fundamental principle: parity between the online and offline worlds, as the noble Baroness, Lady Bertin, and others, have explained. Since 1984, we have prohibited content offline that the British Board of Film Classification would refuse to classify, such as material promoting non-consensual acts or sexual violence. Again, like the noble Lord, Lord Pannick, I hope that, given the extremely effective way the BBFC has carried out its duties, we will not find it too difficult to find a way of sharpening that amendment to make sure that there is a very clear definition of the kind of content online that is equivalent to that offline, which we are seeking to regulate.

Amendments 290 and 291 address content that mimics child sexual abuse and incest. The noble Baroness's review highlighted that "teen" is one of the most frequently searched terms, often leading to videos featuring performers styled with props, such as lollipops and school uniforms, to look underage. Experts working with sex offenders have made it clear that viewing this type of violent or age-play pornography is a key risk factor. Men who offend against children are 11 times more likely to watch violent pornography than those who do not. By allowing this content to proliferate, we are effectively hosting a training ground for abuse. These amendments would extend the definition of extreme pornography to cover these specific, harmful depictions.

Amendment 292 would introduce a duty for pornography websites to verify not just age but consent. We know that the average age of entry into trafficking for pornography in the US is just 12.8 years. Currently, once a video is online, a woman who has been coerced, trafficked or simply changed her mind has often no legal mechanism to withdraw that consent. What the noble Baroness, Lady Berger, said on this was particularly telling. This amendment would provide a necessary right to erasure, ensuring that platforms must remove content if consent is withdrawn. If the banking sector can verify identity to secure our finances, the multi-billion pound pornography industry can verify identity to secure human dignity.

Amendment 298 addresses the rapid rise of AI nudification apps. As my noble friend Lady Benjamin said, the Internet Watch Foundation reported a 380% increase in AI-generated child exploitation imagery between 2023 and 2024—a staggering figure. These tools are being weaponised to humiliate women and children. This amendment would criminalise the possession of software designed to create non-consensual nude images, closing a loophole before it widens further. I add to what the noble Viscount, Lord Colville, said on the need for wider guard-rails on large language models in, I hope, future government legislation.

The Government have rightly recognised the harm of strangulation content, and I urge them now to accept the logic of their own position and to support these additional amendments to deal with incest, child-mimicking content and the fundamental issue of consent. As the noble Baroness, Lady Boycott, said, we should be ashamed of ourselves, and I hope that we now ensure that the legislation catches up with the reality of the digital age.

Lord Cameron of Lochiel (Con): My Lords, I thank my noble friend Lady Bertin not just for tabling and speaking to these amendments but for the excellent work she has done and continues to do in this area, which by all accounts has taken its toll. She has campaigned on these matters for a long time and deserves so much praise from all of us.

When I first discussed these amendments with my noble friend, I could hardly believe what she was telling me. Essentially, their underlying premise is that certain forms of extreme pornography are still allowed despite the fact that they have been proven to have highly damaging impacts on the development and behaviour of young boys and adolescents, not to mention the exploitation of children, women and so many victims and potential victims of this subject matter.

We have heard compelling speeches from the noble Baronesses, Lady Kidron and Lady Kennedy, and, in particular, the noble Baroness, Lady Benjamin, in support of these amendments. There are so many perspectives from which one can look at them. One slightly personal perspective I have is that of a father of teenage children. I have teenage sons. Like all teenagers, they are bombarded with technology, challenged by social media and confronted with the unlimited scope that access to the internet can provide, with all its positive possibilities but also all its temptations, and in particular the dangers inherent in online pornography of an extreme nature. My sons, in effect, are the target

audience of much of this material and I do not want this to be the new normal, as one of my noble friends described it.

The noble Baroness, Lady Kennedy, spoke of poison and how we have to find ways of dealing with it. I concur completely. I think it was the noble Baroness, Lady Benjamin, who said so powerfully that technology is outpacing regulation. That is the real danger here. As my noble friend Lady Shawcross-Wolfson said, we have to close the loopholes.

My noble friend Lady Bertin has highlighted that, at present, we criminalise child sexual abuse in all its forms. We thus criminalise sexual activity within certain family relationships and the making of indecent images of children, yet, astonishingly, online content that depicts, fantasises about or encourages these same criminal acts is legally and widely available.

Amendment 290 confronts the deeply troubling reality that material which appears to portray a child—even when the performer is an adult—can be used to groom, normalise or encourage sexual interest in children. We know that such material is not harmless fantasy. Law enforcement, child protection organisations and international research bodies have all warned that material appearing to depict children fuels harmful attitudes and increases the risk that individuals progress towards real-world offending.

Crucially, Amendment 290 would also create a new offence of producing or distributing material that glorifies or encourages sexual activity with a child or family member. No one in this Chamber needs reminding that such conduct is criminal and profoundly harmful, yet text-based, audio and visual material explicitly celebrating child abuse and incest remains widely accessible on mainstream pornography sites and user-generated content platforms. The law should recognise the role of such material in grooming, desensitisation and normalisation of abuse.

Amendment 291 addresses the glaring inconsistency whereby extreme pornographic content is prohibited in many contexts yet explicit depictions of unlawful sexual acts between family members—including those involving persons described or portrayed as under 18—are not necessarily captured by existing legislation. Incest is a criminal offence, reflecting both the safeguarding imperative and the inherent power imbalance within some familial relationships. Yet, again, pornographic content portraying incest, often stylised to appear illicit, coercive or involving younger family members, remains permissible to host, sell and distribute online so long as it is performed by adults.

This amendment would not criminalise lawful adult behaviour; it would criminalise the possession of extreme pornographic images depicting acts that would themselves be criminal if performed in reality. Once again, the principle is consistency. What is an offence offline should not be freely commodified online under the guise of entertainment.

5.30 pm

Finally, Amendment 292 addresses concerns regarding mandatory age and consent verification for those appearing in pornography hosted online. Despite the measures in the Online Safety Act, there are still platforms that do not have systems in place to verify the age of those involved in such material. Thus, the reality is that huge volumes of pornographic content are uploaded with no verification whatever: no verification of consent or age, or any record-keeping to support claims of either. We have heard stark evidence that minors have been found in mainstream pornographic content; that adult performers have had videos published without their consent or retained after they sought removal; and that platforms profit from this without meaningful accountability.

In conclusion, these amendments do not target free expression; they target exploitation. They would not restrict lawful adult behaviour; they would restrict the depiction and monetisation of criminal acts. They would not create new moral codes; they would simply insist that our existing laws protecting children and families apply with equal force online as they do offline. For those reasons, I support all the amendments in this group from my noble friend Lady Bertin. Having heard the support from across the House this evening, I hope the Minister will too.

Baroness Levitt (Lab): My Lords, it would not be right to begin the Government's response to this group of amendments without first thanking unequivocally the noble Baroness, Lady Bertin. The whole Chamber will join me in saying that we have a great deal to thank her for. She has worked tirelessly on the independent pornography review and has long campaigned to raise awareness of the ways pornography shapes sexual behaviour. This Government share her determination to ensure that the online world is a safer place for everyone, and we are immensely grateful to her for her insights.

The motivation for these amendments is important and I make it absolutely clear that I take them seriously. I have not disagreed with a single word that has been said in the impassioned and sometimes angry contributions in this Chamber—I share that anger and outrage. The noble Baroness, Lady Bertin, is aware, following our meeting last week, of the reasons why the Government will resist her amendments at this stage. However, I look forward to continuing our discussions in greater detail over the coming weeks, including in meetings between my department, the Home Office and DSIT. I hope we will all work closely together to achieve our shared objectives.

I also take this opportunity to announce that the Government will accept, in part, one of the noble Baroness's recommendations from her pornography review—namely, recommendation 24. The Government will review the criminal law relating to pornography, which will give us a chance to look at the law holistically and consider whether it is fit for purpose in an ever-developing online world. Importantly, the review I am announcing today will look into the effectiveness of the existing law in relation to criminalising, among other things, harmful depictions of incest and any forms of pornography that encourage child sexual abuse.

I know the noble Baroness is anxious that any review should not be used as a delaying tactic to avoid making any decisions. I hope she will take it from me that it is my wish to make sure that this takes place quickly. In addition, as I mentioned to her when we

[Baroness Levitt]
met, the Government are not completely opposed to considering swifter action where this is critically important, and I know we will discuss this further at our next meeting.

Given what I have just said, I hope your Lordships will forgive me if I address Amendments 290 to 292 briefly, in the light of the fact we are proposing a review. I am very grateful for the contributions of the noble Baronesses, Lady Benjamin, Lady Kidron, Lady Sugg and Lady Owen, my noble friends Lady Kennedy and Lady Berger, and the noble Lords, Lord Clement-Jones and Lord Cameron of Lochiel—I hope I have mentioned everybody.

I appreciate the motivation behind these amendments, and I reassure my noble friend Lady Kennedy that the Government and I are very much in listening mode. Of course images of actual child incest or actual child sexual abuse are extremely harmful. The same is also true for intimate photos or videos shared without consent, and I note the concerns about how effectively this law is being enforced and regulated. I reassure the noble Baroness, Lady Bertin, that I am committed to working with her on the issues raised by these amendments and I very much look forward to meeting again to discuss them in greater detail to see where we can go with them.

Amendment 298 would criminalise the possession of nudification tools by users. Once again, I accept the intention behind this amendment and recognise the harm caused; it is horrifying. My noble friend Lady Berger spoke movingly about its impact on young women, and other noble Lords spoke strongly about this as well.

Our concern is that this amendment would not target those who provide these unpleasant tools to users in the UK. Additionally, as drafted, it would criminalise the possession of legitimate tools which are designed to create intimate images, such as those used in a medical context. I reiterate that we have significant sympathy for the amendment's underlying objective, so we are actively considering what action is needed to ensure that any intervention in this area is effective. I assure the noble Baroness that we will reflect carefully on what she and other noble Lords—including the noble Baronesses, Lady Kidron, Lady Boycott and Lady Owen, my noble friend Lady Berger, and the noble Viscount, Lord Colville, among others—have said in this debate. I also assure her that we aim to provide an update on this matter ahead of Report.

Finally, Amendment 314 seeks to bring regulatory parity between offline and online pornography. I commend the noble Baroness, Lady Benjamin, for her continued advocacy on this topic over the years. The noble Baroness, Lady Kidron—for whom huge respect is due, in this House and elsewhere—the noble Lords, Lord Carter of Haslemere and Lord Nash, and the noble Baroness, Lady Shawcross-Wolfson, among others, all spoke powerfully about this.

I stress once again that I do not disagree with the motivation that underlies this amendment. No one could disagree with the general principle as a matter of common sense, but extensive further work with the noble Baroness, Lady Bertin, is needed to consider and define with sufficient certainty what currently legal online pornography should not be permitted. It is also important that we make a thorough exploration of the existing legislation and regulation to ensure any new offence is enforceable, protects users to the highest standard and works as intended.

Under the Video Recordings Act, the distribution of pornography on physical media formats is regulated by the BBFC, as we have heard. Obviously, the BBFC will not classify any content which breaches criminal law. Amendment 314 as drafted would create a criminal offence which would require a judgment to be made about whether the BBFC would classify content which has not been subject to the classification process. The noble Lord, Lord Pannick, expressed concerns about the drafting of this amendment while supporting its underlying motivation. As I hope your Lordships will agree, creating this style of criminal offence requires a clearer and more certain definition of this pornographic content, as any individual would need to be able clearly to understand what they need to do to regulate their conduct, so as not to inadvertently commit a criminal offence.

I hope the noble Baroness, Lady Bertin, will appreciate the reasons I have set out for the Government not supporting these amendments today. That said, I hope the announcement of the review into the criminal law and the Government's commitment to work with the noble Baroness over the coming weeks will leave her sufficiently reassured not to press her amendments at this stage.

Baroness Kidron (CB): I want to ask the Minister about the timing. Her tone is exceptionally welcome—I will leave the substance of her response to the noble Baroness, Lady Bertin—but I am watching facial recognition, edtech and AI being rolled out by the Government with impunity. Even earlier today, at Questions, the tool was put at a higher order than the safety. What is the timeframe for the reviews and in which we can expect these very urgent questions to be addressed? There is a Bill in front of us, but when will the next Bill come?

Baroness Levitt (Lab): Can the noble Baroness imagine just how unpopular I would be if I committed to an absolute timeframe? What I can say is that I hope she will take it from me that I regard this as important. The meetings with the noble Baroness, Lady Bertin, have started. This matters but we need to get it right.

Lord Carter of Haslemere (CB): Will this review—yet another review—take place before Report? The Bill is before us, so once Report has passed, it will be too late to have the review. This is not something that we can leave until it is too late. Can we at least have an assurance that Report will be timed in a way that enables the Minister to come back and say, "This review has happened, and this is what we're going to do"?

Baroness Levitt (Lab): I entirely understand the sentiments. I cannot commit to that today, but I will take the point away.

Lord Russell of Liverpool (CB): I will give the Minister a little bit of context, because she has not been in this House very long, for which she is probably

very grateful. Many of us speaking today were very involved in the genesis and ultimate passage of the Online Safety Act. That took six years to happen. When we passed that Act, we thought we were being crystal clear, in both Houses of Parliament, on what we intended to happen and what we intended the regulator to do. One of reasons why her ministerial colleague, the noble Lord, Lord Hanson, got a pretty hard time from this Committee on 27 November was that we felt there was a certain unwillingness to recognise the degree of frustration many of us feel about how the Online Safety Act is being enacted.

In particular, on 27 November, the noble Baroness, Lady Berger, told us that the Molly Rose Foundation has, in effect, given up on hoping that Ofcom will actually do its job, because Ofcom has told the foundation that its attitude and strategy in enacting the Online Safety Act, when dealing with the large platforms, is what it calls "tactical ambiguity". If I were a lawyer for one of the large platforms, I would think that having a regulator that was applying tactical ambiguity was absolutely wonderful; it would be exactly what I would hope for. What we are looking for is action from His Majesty's Government, and when it happens, we are not looking for any kind of ambiguity.

Baroness Levitt (Lab): I have already said that I have heard, and indeed share, the anger and frustration in Committee. I may not have been in your Lordships' House for that long, but I have not been living underneath a stone. Given my previous existence, I am acutely aware of these debates. What is obvious to us all is that, however well-intentioned past attempts have been, these things are still happening. If we want them to stop, we have to do something about them. I do not believe I can go further than I have at the moment; all I can say is that the will is there.

Lord Sentamu (CB): During Robert Runcie's time in the Church of England, he was exasperated that when matters became very difficult, the General Synod was called to set up a committee. He saw the setting up of committees as a postponing of a decision that ought to be taken. These inquiries keep going on and on. Given the Government's machinery and lawyers, I do not understand why this could not be looked at before Report.

Baroness Levitt (Lab): I have already answered that, I am afraid. With the greatest of respect to the noble and right reverend Lord, I cannot give that commitment today, but he has heard what I have said.

Baroness Bertin (Con): My Lords, this has been humbling for me, and it is very hard to know how to respond. There are big shoes to fill after so many amazing speeches. That is what we call teamwork and showing this Chamber at its very best. I assure noble Lords that I still have plenty of petrol left in the tank on this issue. I am very grateful for the acknowledgement that it has been a gruelling piece of work, but what would damage me more is if we did not get this right. I am not prepared to look back and think that we could have done more, and I believe that many others in this Committee would agree with that.

5.45 pm

I will now respond to the Government. I know that the Minister cannot give more assurances than she has given. To give some context, the reason why we are here now discussing these amendments is that the previous Government created a review to park the very difficult conversations in the debates on the then Online Safety Bill around this issue. They said, "Oh, we will put it into a review. When that review publishes, then we will have the answers". I have given the Government the answers and an oven-baked plan.

I thank my team during that review and my team today; I had a team of brilliant civil servants working with me. It was an independent review; I was the boss, but it was a properly done thing. We did it hoping that the Government would literally take it and put it into action, and there is no reason why they cannot do that. By all means review the law, but please come back by Report. I worked at No. 10 for many years, where I saw that reviews are just code for kicking something into the long grass.

The Committee has spoken, and we are reflective of the country too. When I agreed to do the pornography review, I thought for five minutes, "My God, should I actually do this? Am I suddenly going to be Mary Whitehouse?"; I imagined pictures of the pearl-clutching prude. However, I have never had so much support. We have the mainstream media behind us. My inbox is filled every day with people saying, "For the sake of our sons and for the sake of our daughters, keep going"—and I will keep going. If this Government want to have a legacy and to show leadership, they should take all these amendments in full.

However, I accept what the noble Lord, Lord Pannick, said. I would love clarity on Amendment 314. There needs to be a proper debate about what we need to outlaw, because the greyness is where the industry gets away with just carrying on as it was. Let us take the amendment away, take the greyness away as much as possible and bring this back properly on Report. I am happy to have conversations on that and happy to do more work for this Government; I will do it voluntarily and I will do anything it takes. Please take on board these recommendations and do not leave it for another five or 10 years, by which time society will be even more damaged. With that, I beg leave to withdraw my amendment—for now.

Amendment 290 withdrawn.

Amendments 291 and 292 not moved.

Amendment 293

Moved by ***Baroness Brinton***

293: After Clause 82, insert the following new Clause—

"Removal of limitation period for historical child sexual offences

(1) The Sexual Offences Act 2003 is amended as follows.

(2) In section 9 (sexual activity with a child), after subsection (3), insert—

"(4) An offence is committed under this section regardless of when the offending activity was committed."."

Member's explanatory statement

This new clause ensures there is no limitation period for offences under section 9 of the Sexual Offences Act 2003.

Baroness Brinton (LD): My Lords, Amendment 293 in my name is very straightforward and necessary. Victims of child sexual abuse and other offences often do not come forward themselves at the time of the offences. Research has shown that, on average, it takes around three decades for a survivor to get the courage to come forward—and then even longer to get to court. As a result, almost all abuse claims are brought outside the statutory time limit. The problem is that, if the survivor cannot convince the court that a fair trial is possible, the claim falls and the victim can never get justice.

All the various strands of the independent inquiry into child sexual abuse, which were referred to earlier—including the Westminster report, the Anglican Church report, the Catholic Church report and the children in custodial sentences report—said that it was usually decades after the offences that victims reported what had happened. Frequently, this then gave other victims the confidence to come forward too, in exactly the way that happened after the BBC presenter Nicky Campbell spoke up in 2022 about the abuse at his school, the Edinburgh Academy, decades before. The abuse there involved arbitrary violence on boys under 11, including choking, throwing them down stairs and various other disgusting forms of abuse.

In September 2023 an ex-teacher, Russell Tillson, was jailed for sexually abusing boys. Beginning in the 1980s, it continued for 20 years, but allegations were first made only in 2018, nearly a further two decades after the teacher had retired. Both cases are absolutely typical of the behaviour of perpetrators and, indeed, of victims.

Earlier this year the Government said they were minded to consider removing the limitation period, but we believe that it needs to happen now and be in the Bill. The amendment seeks to remove any limitation period for historical child sex offences. It just must not be possible for a perpetrator to escape justice because the victims were too traumatised to come forward until years later. I beg to move Amendment 293.

Baroness Chakrabarti (Lab): My Lords, I support the amendment from the noble Baroness, Lady Brinton. I need not take very long, because she has explained her very straightforward amendment impeccably. After the brilliant previous group led by the noble Baroness, Lady Bertin, and her team, perhaps there is no need to go into all the quite serious sexual contact included in Section 9 of the Sexual Offences Act that need not necessarily be tried in the Crown Court.

I support the amendment for two simple but important reasons. First, there is some very serious sexual activity with children that could be tried in the magistrates' courts—there is not necessarily a problem with that. Secondly, there is the obvious reason of historic child abuse and victims coming forward sometimes only many years after the fact. Those are very good reasons to depart from the norm of the six-month time limit and, indeed, to have no time limits at all.

Lord Faulks (Non-Afl): My Lords, I absolutely accept much of what the noble Baroness, Lady Brinton, has said about the awful nature of historic child abuse and the reasons why there is often a delay before bringing forward complaints, but it is important that we do not conflate civil proceedings and criminal proceedings. The earlier group was to do with people claiming damages, where the defendant is not usually the perpetrator. There may be reasons why we have reached a stage where there cannot be a fair trial. I will leave that aside for the moment.

This amendment is concerned with criminal offences. There is not a limitation period for criminal offences generally, subject to the prosecution deciding that so much time has elapsed that it is not appropriate to bring forward a claim. The noble Baroness has experience of occasionally making those decisions in very old cases. The Minister is pointing at me and is going to give a longer and more authoritative answer than I will attempt to do now. I make the point in general terms.

Lord Garnier (Con): My Lords, I agree with the noble Lord, Lord Faulks. While I entirely understand the motivation behind the amendment from the noble Baroness, Lady Brinton, I am not entirely sure that it is necessary. As the noble Lord said, there is no limitation for the bringing of this particular Section 9 offence.

I do not wish to get into my anecdotage, but I remember that, as a law officer, one very often had to deal with historic offences whereby a mature person, in their 50s, 60s or 70s, was being indicted or prosecuted for an offence they committed many years ago against a minor. Had the problem existed that the noble Baroness, Lady Brinton, envisages through her amendment, that would have been a matter we would have had to consider. As the Minister will no doubt tell us from her experience as someone who worked at a senior level in the Crown Prosecution Service, you have to consider whether there is an adequacy of evidence and whether it is in the public interest to bring that person to trial. The age of the offence might be considered by the prosecutor, but there is no time bar, as I understand it. While I may well be corrected for being out of date and ignorant, I certainly do not think that there is a need for this amendment, although it is well motivated.

I have a suspicion that I have got this entirely wrong and that the Minister is going to tell me that it would have been better if I had kept to my place, but there we are. There are plenty of things that we could do with the Bill—make it shorter, for example—but I am not sure that this amendment is one that we need to add to it.

Earl Attlee (Con): My Lords, I speak in strong support of the amendment from the noble Baroness, Lady Brinton. I do not know whether it is necessary. I declare an interest as a victim. My concern about the historic sex offences is the prison population. We have large numbers of historic sex offenders in prison. It creates great problems for the Prison Service. However, a custodial sentence is the only sensible disposal. We need to work out what to do with historic sex offenders within the prison system.

Baroness Doocey (LD): My Lords, my noble friend Lady Brinton has made a powerful case for removing the limitation period. The Government have already

signalled a willingness to act, so objections are likely about timing rather than policy—at least, I hope that is the case.

The amendment would align the law with what Parliament has already accepted, which is that child sexual abuse is distinct from other offences. This is a crime defined by secrecy, grooming and a stark power imbalance. We know that victims often take decades to come forward, so allowing offenders to shelter behind time would reward fear and coercion.

Amendment 293 provides clarity for all parties—victims, police, prosecutors and, indeed, defendants. It removes the scope for technical argument about whether a particular course of conduct falls outside time and instead focuses everyone on the core question, which is whether the evidence available can support a fair trial. It also brings coherence. Across the system, we are rightly moving away from arbitrary cut-offs that prevent past abuse ever being heard in court. The amendment is a modest step in the same direction in accordance with the recommendations of inquiries and the expectations of survivors.

There must be no time bar on prosecuting sexual activity with a child. If we are serious about saying that such conduct is never acceptable, surely we should also be serious about saying that it is never too late to pursue justice for it. The amendment achieves that and warrants the support of the Committee and the Government.

Lord Cameron of Lochiel (Con): My Lords, I am very grateful to the noble Baroness, Lady Brinton, for bringing forward the amendment. Obviously, victims of child sexual offences should always be able to seek justice, no matter how long it takes them to come forward.

We absolutely understand and respect the intention behind this proposal. Many survivors of abuse do not feel able to disclose until years—sometimes decades—after the offence, and there is a very real sense of injustice when the law appears to stand in the way of accountability.

However—and on this point I side with my noble and learned friend Lord Garnier—I think there exists no limitation period for offences that would occur under Section 9 of the Sexual Offences Act. The Limitation Act 1980 applies only to civil cases, and indictable criminal cases do not have general limitation periods in England and Wales. As offences under Section 9 of the Sexual Offences Act are indictable only, we do not think the amendment is strictly necessary, despite the fact that it pursues a very noble aim. While sympathetic, therefore, to the principle—

Baroness Chakrabarti (Lab): Briefly, has the noble Lord opposite considered Section 127 of the Magistrates' Courts Act, which has a six-month time limit on prosecutions brought in the magistrates' court? Has he considered that Section 9 is neither a way of—my noble friend the Minister is shaking her head at me, so maybe it is not necessary for the noble Lord to answer.

Lord Cameron of Lochiel (Con): I thank the noble Baroness for that. I will just wait for the Minister to explain to all of us what the position is.

Baroness Levitt (Lab): My Lords, I am grateful to the noble Baroness, Lady Brinton, for bringing forward this amendment today. As I have said when responding to the other amendments, I stress that I entirely understand the motivation underlying it. Victims and survivors of child sexual abuse have every right to see justice for the horrendous crimes they endured. I know perfectly well through my experience in other parts of public service, if you like, of how long it can take for victims to be able to come forward. To that extent, there is nothing between the noble Baroness and me, and indeed others who have spoken: the noble Earl, Lord Attlee, the noble Baroness, Lady Doocey, the noble Lord, Lord Cameron, and my noble friend Lady Chakrabarti. That said, I am afraid I am going to have to disappoint the noble Baroness when I say that the Government cannot accept her amendment, and I hope she will appreciate the reason for it when in a moment I explain why.

6 pm

To explain, I have to give a short bit of legislative history. Section 9 of the Sexual Offences Act 2003 replaces Section 6 of the 1956 Act of the same name. The old Section 6 made it an offence for a man to have sexual intercourse with a girl aged 13 to 15. This was to do with the statutory age of consent—it had nothing to do with whether there was actual consent; prosecutors did not have to prove that the victim did not consent, merely that she was below the age of consent, so it was a completely separate offence from the offence of rape. Unusually for a criminal offence—in this the noble and learned Lord, Lord Garnier, and the noble Lord, Lord Faulks, are entirely correct—prosecutions for the old Section 6 offence had to be brought within 12 months of its commission by virtue of the 1956 Act.

The old Section 6 offence and its time limit were rightly repealed by the Sexual Offences Act 2003, which introduced a much more comprehensive framework of sexual offences, including those against children, and any acts committed from 1 May 2004 onwards are prosecuted under the 2003 Act. As for the new Section 9 offence—even if there was no consent—which replaced the old Section 6 offence, there is now no time limit for bringing a prosecution.

The difficulty with the noble Baroness's amendment is that it would operate retrospectively, when it is an age-old principle of the criminal law that criminal offences should not have retrospective effect. The general reason for the rule, as I am sure is appreciated by your Lordships, is that offences with retrospective effect risk criminalising behaviour which was not illegal at the time the person behaved in that way. Subsequently to criminalise behaviour that was perfectly lawful at the time it took place is the behaviour of repressive regimes and not mature democracies.

The principle that criminal offences shall not have retroactive effect is enshrined in Article 7 of the European Convention. Therefore, the noble Baroness's amendment would be incompatible with Article 7, which prohibits the retrospective revival of prosecutions which have become time-barred due to the expiration of a limitation period.

Therefore, while I of course sympathise with the need for victims and survivors of child sexual abuse to see justice for the crimes committed against them,

[Baroness Levitt]
retrospective criminalisation is contrary to the rule of law and raises serious concerns about legal certainty and fairness. We absolutely must support victims, but we must also uphold the principle that individuals are judged by the law as it was at the time of the alleged conduct.

A very small cohort of offences is covered here, because any offences where there was no consent or where the child was younger than 13 will be caught by all the other offences which have no limitation period to them. It is just that small cohort, aged 13 to 15, where they cannot prove lack of consent.

I am grateful to the noble Baroness for moving this amendment today. As I said, I understand the sentiment; I hope she will appreciate the Government's reasons for opposing it. For those reasons, I invite her to withdraw it.

Baroness Chakrabarti (Lab): Just because this is so important, and no doubt for our understanding, can I ask two questions? First, on there being no time limit, is that because there is some exception in the Magistrates' Courts Act to the normal six-month time limit on summary conviction? Section 9(3)(a) of the Sexual Offences Act allows summary conviction, so this removal of the time bar must be somewhere either in the Sexual Offences Act or in the Magistrates' Courts Act. My second question relates to Article 7. Of course, the prohibition on retroactive criminalisation does not apply when the crime in question would be thought of as criminal according to the laws of civilised nations. Of course, that was upheld as a principle when marital rape was finally criminalised in all these jurisdictions by the courts rather than by statute.

Baroness Levitt (Lab): I will deal with my noble friend's second point first. There are decisions of the domestic courts here that support the fact that you cannot bring prosecutions for what was the unlawful sexual intercourse offence under Section 6, nor can you even bring a prosecution for sexual assault based on the same facts, because that would transgress the prohibition in Article 7. As regards the time limit, Section 9 of the 2003 Act has no time limitations in it, which is the usual principle of criminal offences in this country, but for this tiny cohort of behaviour—it really is very small—you could not prosecute under Section 9 because of Article 7. Section 6 no longer exists, and you cannot get round it by using Section 9, but it really is a very small number of cases.

Lord Pannick (CB): I suggest to the noble Baroness that, in addition, these offences are so serious that they would not be prosecuted in the magistrates' court; they would be indictable offences, would they not?

Baroness Levitt (Lab): The noble Lord is quite correct: this has nothing to do with magistrates' court time limits. There was a statutory time limit contained within Section 6 of the 1956 Act that said that all prosecutions for offences under Section 6 must be brought within 12 months in any court. It is nothing to do with the time limits in the Magistrates' Courts Act.

Baroness Chakrabarti (Lab): I am so sorry to labour the point, but I think it is so important that we understand, and if it cannot be dealt with now, perhaps the Minister could write to the noble Baroness, Lady Brinton, and the Committee. I am looking at Section 9 of the Sexual Offences Act, on "Sexual activity with a child", which I understand to be the section that the noble Baroness is seeking to amend in her amendment. Section 9(3)(a) allows summary conviction for that offence, and the maximum penalty is

"imprisonment for a term not exceeding 6 months",

or the statutory maximum fine.

Baroness Levitt (Lab): I am of course more than happy to write to my noble friend, and it must be my fault I am not explaining this properly. There is no time limit for prosecutions brought under Section 9 generally, unless it refers to particular behaviour—so that would be an offence committed against a girl aged between 13 and 15—that took place before the repeal of the 1956 Act and the bringing into force of the 2003 Act. You could not prosecute that under Section 9 because the time limit has expired for bringing it under Section 6, in the same way that you cannot prosecute for sexual assault for the same behaviour because you cannot bring a prosecution under Section 6. I had better write, because I can see from the puzzled look on my noble friend's face that I have not explained it very well.

Lord Pannick (CB): Perhaps the noble Baroness could also include in that letter reference to what is either a decision of the Appellate Committee or the Supreme Court—I think it is the former—which addresses this and explains precisely why those who are alleged to have committed offences before the relevant dates are protected by the 1956 Act and continue to be so.

Baroness Levitt (Lab): The noble Lord has explained it rather better than I did.

Baroness Brinton (LD): I am very grateful to everyone who has spoken. I am probably the only non-lawyer in this debate, and as it is my amendment I feel something of a duffer.

I am very grateful for the advice. I came to this amendment after reading the recommendations of IICSA, and what concerned me particularly was picking up that people who had come forward years afterwards were told that things were timed out—that might have been a decision by the CPS to say that it felt that it would not be effective going to trial. However, I very much appreciate the points made by the noble Baroness, Lady Chakrabarti, because I have experience of the issue of which court deals with issues through my interests in stalking and other domestic abuse cases, where often that is the place that things happen. All the description that has been given for "no time limits" has not been for the magistrates' court, excepting the detail that the noble Baroness provided, which is way beyond my knowledge.

There is the difficulty that Professor Jay reported. In two cases where I was heavily involved with the victims, decisions were made initially by the CPS and

the victims were told that they had timed out. That may not have been the case, but that is what they were told. In another case, when there were three pupils from the same school all giving evidence, none of them knowing each other, the first victim was told by the judge, "Yours is over 20 years ago; you can't possibly remember what happened and therefore it's timed out". That is what is happening in the practice of the courts. Professor Jay's report spoke to the experience of the victims. We have gone into extraordinary technical detail that many victims would be completely oblivious to. I would be very grateful for a letter. If there is an easy solution, it may just be that it needs to be clarified with the police and the CPS. There are a lot of unhappy victims out there. With that, I beg leave to withdraw my amendment.

Amendment 293 withdrawn.

Clauses 83 and 84 agreed.

Amendment 294

Moved by ***Baroness Levitt***

294: After Clause 84, insert the following new Clause—

"Pornographic images of strangulation or suffocation: England and Wales and Northern Ireland

(1) After section 67 of the Criminal Justice and Immigration Act 2008 insert—

"67A Possession or publication of pornographic images of strangulation or suffocation

(1) It is an offence for a person to be in possession of an image if—

(a) the image is pornographic, within the meaning of section 63,

(b) the image portrays, in an explicit and realistic way, a person strangling or suffocating another person, and

(c) a reasonable person looking at the image would think that the persons were real.

(2) It is an offence for a person to publish an image of the kind mentioned in subsection (1).

(3) Publishing an image includes giving or making it available to another person by any means.

(4) Subsections (1) and (2) do not apply to excluded images, within the meaning of section 64.

(5) In this section

"image" has the same meaning as in section 63.

(6) Proceedings for an offence under this section may not be instituted—

(a) in England and Wales, except by or with the consent of the Director of Public Prosecutions;

(b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

67B Defences to offences under section 67A

(1) Where a person is charged with an offence under section 67A(1), it is a defence for the person to prove any of the matters mentioned in subsection (2).

(2) The matters are—

(a) that the person had a legitimate reason for being in possession of the image concerned;

(b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an image of the kind mentioned in section 67A(1);

(c) that the person—

(i) was sent the image concerned without any prior request having been made by or on behalf of the person, and

(ii) did not keep it for an unreasonable time;

(d) that the person directly participated in the act portrayed and the act did not involve the infliction of any non-consensual harm on any person.

(3) Where a person is charged with an offence under section 67A(2), it is a defence for the person to prove any of the matters mentioned in subsection (4).

(4) The matters are—

(a) that the person had a legitimate reason for publishing the image concerned to the persons to whom they published it;

(b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an image of the kind mentioned in section 67A(1);

(c) that the person directly participated in the act portrayed, the act did not involve the infliction of any non-consensual harm on any person, and the person only published the image to other persons who directly participated.

(5) In this section

"non-consensual harm" has the same meaning as in section 66.

67C Penalties for offences under section 67A

(1) A person who commits an offence under section 67A(1) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);

(b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine (or both);

(c) on conviction on indictment in England and Wales or Northern Ireland, to imprisonment for a term not exceeding two years or a fine (or both).

(2) A person who commits an offence under section 67A(2) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);

(b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine (or both);

(c) on conviction on indictment in England and Wales or Northern Ireland, to imprisonment for a term not exceeding five years or a fine (or both).

67D Possession of extreme pornographic images: alternative verdict in magistrates' court

If on the trial of a person charged with an offence under section 63 a magistrates' court finds the person not guilty of the offence charged, the magistrates' court may find the person guilty of an offence under section 67A(1).".

(2) In section 68 of that Act (special rules relating to providers of information society services) for "section 63" substitute "sections 63 and 67A".

(3) In Schedule 14 to that Act (special rules relating to providers of information society services)—

(a) in paragraphs 3(1), 4(2) and 5(1) after "63" insert "or 67A";

(b) in paragraph 5(2)—

(i) after "possession" insert "or publication";

(ii) for "an offence under section 63" substitute "the offence in question".

(4) In Schedule 34A to the Criminal Justice Act 2003 (child sex offences for purposes of section 327A), after paragraph 13 insert—

"13ZA An offence under section 67A of that Act (possession or publication of pornographic images of strangulation or suffocation) in relation to an image showing a person under 18."

(5) In Schedule 7 to the Online Safety Act 2023 (priority offences), in paragraph 29—

(a) for "section 63" substitute "any of the following provisions";

(b) for the words in brackets substitute—

"(a) section 63 (possession of extreme pornographic images);

(b) section 67A (possession or publication of pornographic images of strangulation or suffocation)"."

Member's explanatory statement

This amendment makes it an offence in England and Wales and Northern Ireland to possess or publish a pornographic image that portrays strangulation (often referred to as "choking porn") or suffocation.

Baroness Levitt (Lab): My Lords, again it would not be right to speak to this group of amendments without first thanking the noble Baroness, Lady Bertin. In her independent pornography review, the noble Baroness recommended that non-fatal strangulation pornography—commonly known as choking porn—should be illegal to possess, distribute and publish. The noble Baroness has identified, and many have already mentioned in your Lordships' Committee as part of the debate on another group of amendments, that the prevalence of strangulation pornography is leading to this behaviour becoming more commonplace in real life. The noble Baroness is absolutely right. Evidence suggests that it is influencing what people, particularly young people, think is expected of them during sex. It is also right to point out that they are not necessarily aware of the serious harm it can cause.

In June this year, we committed to giving full effect to the noble Baroness's recommendation. Today I am pleased to do just that. We have tabled Amendments 294, 295, 488, 494, 512, 515, 526, 548 and 555, which will criminalise the possession and publication of pornographic images that portray strangulation or suffocation—otherwise known as choking porn. These changes will extend UK-wide. The terms "strangulation" and "suffocation" are widely understood and carry their ordinary meaning. Strangulation requires the application of pressure to the neck and suffocation requires a person to be deprived of air, affecting their ability to breathe. For this offence, the strangulation or suffocation portrayed must be explicit and realistic, but it does not have to be real. For example, it can be acted or posed, or the image may be AI-generated—provided that the people in the image look real to a reasonable person.

The maximum penalty for the possession offence is imprisonment for two years. This mirrors penalties under Section 3 of the Criminal Justice and Immigration Act 2008. The penalty reflects that while the content is harmful, much of it will not depict an unlawful act actually taking place, depending on the circumstances. For publication of such images, the maximum penalty will be imprisonment for five years, commensurate with penalties for publication under the Obscene Publications Act 1959. This reflects the underlying aims of this amendment to restrict the availability of this type of pornography.

In addition, we are amending the Online Safety Act 2023 to ensure that the offences are listed as priority offences. This will oblige platforms to take the necessary steps to stop this harmful material appearing online. This change is a vital step towards our mission to halve violence against women and girls, and as I move these amendments today it is right that the noble Baroness, Lady Bertin, is credited for this change. I beg to move.

Baroness Bertin (Con): My Lords, I rightly praise the Government and the Prime Minister for making this change. It shows real leadership. I speak for so many in saying thank you for taking that recommendation on board.

This amendment to ban depictions of strangulation in pornography has raised awareness more widely of how out of control online pornography has become and how it is affecting real life behaviour. I am not easily shocked these days, but I was very shocked by the example given by my friend, the noble Baroness, Lady Kidron, of how those carrying out post-mortems are now having to be trained to look for signs of strangulation. That says it all.

6.15 pm

For years, campaigners have fought to expose the dangers of strangulation and suffocation in pornography, acts that have been dressed up as erotic and liberating when in truth they are life-threatening. This is disproportionately affecting young women. I want to recognise those voices, especially Professor Clare McGlynn, whose persistence has brought us to this moment. I also thank my team. Without their determination, this change would not be happening. I pay tribute to my dear friend the late Lady Newlove, who began this journey when she pushed through law and raised awareness of non-fatal strangulation as the hideous controlling crime that it is. They are undoubtedly linked.

I have spoken to many senior police officers who are delighted with this change, which gives them yet more ability to charge people. The officers I have spoken to, who are very involved in offences of violence against women and girls, are keen to start charging perpetrators more with this kind of illegal pornography. It will help to build up data around that connection between crimes of a sexual nature and pornography of this nature, as we spoke about in previous debates.

This is not just another amendment. It is a lightbulb moment, a recognition that what has been normalised for too long is neither safe nor acceptable. Again, I refer to my friend, the noble Baroness, Lady Kidron. This must not be the new normal, and I thank the Government for recognising that. For too many women and girls this has meant fear, injury and trauma. There is no safe way to strangle someone, let us be clear. Reports coming into the review would say that teachers were having boys saying in sex education lessons, "How do I safely strangle my girlfriend?". One school did an extraordinary session on how to safely strangle your partner. What the absolute you-know-what? I hope this will put an end to the crazy place that we have managed to get ourselves to.

Enforcement will be key. I will not reiterate what I have said before, but right now it is unacceptable that there is no central place to report problematic content to Ofcom, whether it is strangulation, rape porn or other banned material. The industry cannot be left to self-regulate. The noble Viscount, Lord Colville, mentioned that in a previous debate. There must be clearer and much faster mechanisms to take down this kind of material. In my review, I recommended that a separate body should be appointed to conduct audits and proactive spot checks on platforms that host pornographic content. It should work with Ofcom to expediate reports of lack of compliance. This body could also be a key driver and convener for safety tech, which we know needs leadership and direction from government—which the noble Baroness, Lady Kidron, could not know more about.

An accreditation scheme should be set up so that it is clear to the users—public, government, banks and payment providers—which companies are compliant. From recent polling we know that a great many regular porn users do not want to encounter abusive and prohibited content. Such an infrastructure might be good for business. I do not particularly want that, but ultimately that is where change happens.

The Government's key manifesto pledge to halve violence against women and girls within the decade is a very noble aim, and I am determined to help them succeed in that. We will soon have their strategy on how they plan to do this. I just want to reiterate that no plan serious about prevention can ignore online pornography and where we have got to. Of course we need better policing of rape and domestic violence, but also of the material that legitimises it. Banning depictions of choking and strangulation porn is a very good start, but it is by no means the end.

This is about more than law; it is about a culture, and saying with one voice that violence is not intimacy and harm is not entertainment. This is a moment to protect women and girls particularly, because it disproportionately affects them, but as someone said in an earlier debate: a big shout-out for the fact that men are also affected by this violence and, obviously, this violent porn. We need to build an online world that reflects our values, not our worst instincts.

Baroness Gohir (CB): I too would like to thank the Government for these amendments, because helplines have seen a rise in non-fatal strangulation offences, and not everything gets reported to the police. We have seen a rise at the charity that I run, the Muslim Women's Network helpline. Research shows that if a victim is subject to a non-fatal strangulation, they are seven times more likely to be a victim of domestic homicide. Analysis of the domestic homicide data shows that strangulation is one of the two main methods of killing women. I hope that the long-term trend, once these amendments are introduced, will be a decline in these types of offences being reported on helplines. I commend the Government.

Baroness Doocey (LD): My Lords, these dangerous practices of strangulation and suffocation are often used to control, intimidate and silence in domestic abuse situations. The growing normalisation of strangulation during sex risks giving abusers a veneer of acceptability and a false sense of impunity. Strangulation was the cause of death of over a quarter of the women killed between 2014 and 2025—about 550 in total. In that context, the case for criminalising such images is compelling. Mainstream platforms must be put under a duty to remove this material or face sanction.

The related amendments in this group are welcome, in order to ensure that the new offences operate coherently across England and Wales, Scotland and Northern Ireland. We on these Benches very much support this group of amendments, which sends a clear signal that such material is totally unacceptable.

Lord Cameron of Lochiel (Con): I thank the Minister for tabling this group of amendments, and I am happy to offer the support of these Benches. The criminalisation of strangulation in pornography is part of a wider initiative that has been championed across the House and discussed today, particularly on this side by my noble friend Lady Bertin, but by many others as well.

The prevalence of strangulation in pornography and the harm it causes are very clear. Distributing such material is already illegal offline; the fact that its online equivalent is not is a gap in the law, and these amendments correct that. They close that gap and prohibit the distribution of a practice that is both dangerous and extreme. I know that there are reports from some GPs of an exponential rise in incidents of non-fatal strangulation and suffocation among younger generations, which they largely attribute to pornography; the least we can do is to provide restrictions on dangerous content that should not be normalised. As has been said, distributing non-fatal strangulation images is unlawful offline; it makes little sense that that is not replicated in our online legislation. This group aims to correct that, and I willingly offer the support of these Benches.

Baroness Levitt (Lab): I thank all noble Lords for their support for these amendments, particularly the noble Baronesses, Lady Bertin, Lady Gohir and Lady Doocey, and the noble Lord, Lord Cameron. I also note the concerns raised by the noble Baroness, Lady Bertin, about enforcement and regulation. As I said in the debate on the second group, I am very keen to continue working with the noble Baroness on other matters related to online pornography— there is much more to be done.

I hope that, in the meantime, your Lordships will join me in supporting the important steps the Government are taking in relation to strangulation pornography. I beg to move.

Amendment 294 agreed.

Amendment 295

Moved by ***Baroness Levitt***

295: After Clause 84, insert the following new Clause—

"Pornographic images of strangulation or suffocation: Scotland

(1) After section 51C of the Civic Government (Scotland) Act 1982 insert—

"51D Pornographic images of strangulation or suffocation

(1) It is an offence for a person to be in possession of an image if—

(a) the image is pornographic, within the meaning of section 51A,

(b) the image depicts, in an explicit and realistic way, a person strangling or suffocating another person, and

(c) a reasonable person looking at the image would think that the persons were real.

(2) It is an offence for a person to publish an image of the kind mentioned in subsection (1).

(3) Publishing an image includes giving or making it available to another person by any means.

(4) Subsections (1) and (2) do not apply to excluded images, within the meaning of section 51B.

(5) In this section

"image" is to be construed in accordance with section 51A.

51E Defences to offences under section 51D

(1) Where a person is charged with an offence under section 51D(1), it is a defence for the person to prove any of the matters mentioned in subsection (2).

(2) The matters are—

(a) that the person had a legitimate reason for being in possession of the image concerned;

(b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an image of the kind mentioned in section 51D(1);

(c) that the person—

(i) was sent the image concerned without any prior request having been made by or on behalf of the person, and

(ii) did not keep it for an unreasonable time;

(d) that the person directly participated in the act depicted and the act did not actually involve strangulation or suffocation of any person.

(3) Where a person is charged with an offence under section 51D(2), it is a defence for the person to prove any of the matters mentioned in subsection (4).

(4) The matters are—

(a) that the person had a legitimate reason for publishing the image concerned to the persons to whom they published it;

(b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an image of the kind mentioned in section 51D(1);

(c) that the person directly participated in the act depicted, the act did not actually involve strangulation or suffocation of any person, and the person only published the image to other persons who directly participated.

51F Penalties for offences under section 51D

(1) A person who commits an offence under section 51D(1) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

(2) A person who commits an offence under section 51D(2) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);

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

51G Possession of extreme pornographic images: alternative verdict

If on the trial of a person charged with an offence under section 51A a court finds the person not guilty of the offence charged, the court may find the person guilty of an offence under section 51D(1).".

(2) In the Extreme Pornography (Electronic Commerce Directive) (Scotland) Regulations 2011 (S.S.I. 2011/137)—

(a) in regulation 2(1), in the definition of "relevant offence"—

(i) after "51A" insert "(extreme pornography) or 51D (pornographic images of strangulation or suffocation)";

(ii) after "Act" omit "(extreme pornography)";

(b) in regulation 3(1) and (3) for "a relevant offence" substitute "an offence under section 51A of the 1982 Act";

(c) in regulation 6(2)—

(i) after "possession" insert "or publication";

(ii) for "a relevant offence" substitute "the relevant offence in question"."

Member's explanatory statement

This amendment makes it an offence in Scotland to possess or publish a pornographic image that depicts strangulation (often referred to as "choking porn") or suffocation.

Amendment 295 agreed.

Amendments 295A and 295B

Moved by ***Lord Hanson of Flint***

295A: After Clause 84, insert the following new Clause—

"Obscenity etc offences: technology testing defence

(1) The Secretary of State may by regulations provide defences to relevant offences for persons who are authorised by the Secretary of State to carry out technology testing activities.

(2) "Technology testing activities" means activities which are carried out in the course of, or in connection with, testing technology for the purposes of—

(a) investigating whether it may have been made or adapted for use for creating, or facilitating the creation of, prohibited material, or

(b) testing whether it may be used to create, or facilitate the creation of, prohibited material.

(3) "Prohibited material" means anything in relation to which a relevant offence may be committed.

(4) The regulations may make provision about authorisations by the Secretary of State to carry out technology testing activities, including provision—

(a) for authorisations to be subject to conditions (which may be specified in the regulations or determined by the Secretary of State);

(b) for the variation, suspension, or withdrawal of authorisations and conditions;

(c) for the enforcement of any breaches of conditions (which may include provision creating criminal offences punishable with a fine);

(d) for fees to be payable to the Secretary of State, as a means of recovering costs incurred by the Secretary of State in exercising functions under the regulations.

(5) The Secretary of State must consult the Scottish Ministers before making regulations under this section containing provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.

(6) The Secretary of State must consult the Department of Justice in Northern Ireland before making regulations under this section containing provision that—

(a) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and

(b) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998."

Member's explanatory statement

This new clause creates a power to make regulations providing a defence to certain offences which may be committed in the course of technology testing, where the technology testing is authorised by the Secretary of State.

295B: After Clause 84, insert the following new Clause—

"Technology testing defence: meaning of "relevant offence"

(1) For the purposes of section (Obscenity etc offences: technology testing defence) "relevant offence" means—

(a) an offence listed in subsection (2),

(b) an offence listed in subsection (3) (Scotland), and

(c) an offence listed in subsection (4) (Northern Ireland).

(2) The offences referred to in subsection (1)(a) are offences under any of the following provisions—

Act	Provision
Obscene Publications Act 1959	Section 2 (publication of obscene article)
Protection of Children Act 1978	Section 1(1)(a), (b) or(c) (indecent photographs of children)
Criminal Justice Act 1988	Section 160(1) (indecent photographs of children)
Communications Act 2003	Section 127(1) (sending indecent messages via public electronic communications network)
Sexual Offences Act 2003	Section 46A (child sexual abuse image generators) Section 66B(1) (sharing intimate photograph or film) Section 66E(1) (creating purported intimate image of adult) Section 66F(1) or (2) (requesting creation of purported intimate image of adult)
Criminal Justice and Immigration Act 2008	Section 63 (possession of extreme pornographic images), as it has effect under the law of England and Wales Section 67A (possession or publication of pornographic images of strangulation or suffocation), as it has effect under the law of England and Wales
Coroners and Justice Act 2009	Section 62 (possession of prohibited images of children), as it has effect under the law of England and Wales
Serious Crime Act 2015	Section 69 (possession of paedophile manual), as it has effect under the law of England and Wales

(3) The offences referred to in subsection (1)(b) are offences under any of the following provisions—

Act	Provision
Civic Government (Scotland) Act 1982	Section 51 (obscene material) Section 51A (extreme pornography) Section 51D (pornographic images of strangulation or suffocation) Section 52(1)(a), (b) or(c) (indecent photographs of children) Section 52A (indecent photographs of children) Section 52D (child sexual abuse image generators)
Sexual Offences (Scotland) Act 2009	Section 41A (possession of advice or guidance about abusing children sexually or creating CSA images)
Abusive Behaviour and Sexual Harm (Scotland) Act 2016	Section 2 (disclosing or threatening to disclose intimate photograph or film)

(4) The offences referred to in subsection (1)(c) are—

(a) an offence under the common law of Northern Ireland of publishing an indecent or obscene article;

(b) offences under any of the following provisions—

Act / Order	Provision
Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I.17)	Article 3(1)(a), (b) or (c) (indecent photographs of children)
Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17))	Article 15(1) (indecent photographs of children)
Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))	Article 42A (child sexual abuse image generators)
Criminal Justice and Immigration Act 2008	Section 63 (possession of extreme pornographic images), as it has effect under the law of Northern Ireland Section 67A (possession or publication of pornographic images of strangulation or suffocation), as it has effect under the law of Northern Ireland
Coroners and Justice Act 2009	Section 62 (possession of prohibited images of children), as it has effect under the law of Northern Ireland
Serious Crime Act 2015	Section 69 (possession of paedophile manual), as it has effect under the law of Northern Ireland

(5) The Secretary of State may by regulations amend this section so as to change the meaning of "relevant offence".

(6) The Secretary of State must consult the Scottish Ministers before making regulations under this section containing provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.

(7) The Secretary of State must consult the Department of Justice in Northern Ireland before making regulations under this section containing provision that—

(a) would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and

(b) would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998."

Member's explanatory statement

This new clause specifies the offences for which the technology testing defence is to be available.

Amendments 295A and 295B agreed.

Amendment 295BA

Moved by ***Baroness Owen of Alderley Edge***

295BA: After Clause 84, insert the following new Clause—

"Content removal reporting and enforcement

(1) No later than 12 months from the day on which this Act is passed, the Secretary of State must by regulations make provision for—

(a) the way in which offences under section 66B of the Sexual Offences Act 2003 (sharing or threatening to share intimate photograph or film) can be reported, and

(b) the mechanism by which content created as a result of offences under that section can be removed.

(2) The mechanism must include—

(a) a mandatory removal period for content that the reporting party reasonably believes to be in breach of section 66B of the Sexual Offences Act 2003 of 48 hours,

(b) guidance on what constitutes clear and accessible reporting,

(c) sanctions for malicious reporting,

(d) sanctions for the failure to remove duplicates of offending material,

(e) a review period after the initial 48 hours for assessing suspected offending content, and

(f) guidance on which online platforms are within scope of this section."

Baroness Owen of Alderley Edge (Con): My Lords, I rise to speak to Amendment 295BA and the other amendments in this group in my name and the names of the noble Lords, Lord Pannick and Lord Clement-Jones, and the noble Baronesses, Lady Kidron, Lady Coffey and Lady Gohir. I am grateful for the wise legal counsel of Professor Clare McGlynn KC and the support of the Revenge Porn Helpline, My Image, My Choice, Not Your Porn and Jodie Campaigns.

Amendment 295BA is based on the precedent set in the Take It Down Act in the USA. It compels the Secretary of State to implement a 48-hour time limit for online platforms to remove non-consensually shared intimate content. It is important to note that there is also a clause that allows for sanctions for malicious actors. In this way, we seek to protect those who may consensually share content from being targeted by people who may wish to silence them.

Sophie Mortimer from the Revenge Porn Helpline said that while we have an excellent track record on removal, the reality in most cases is that it takes hours, days, or months. There are a number of clients who have been reporting content for over five years. Sophie has emphasised that the handful of responsible and responsive platforms should not be the yardstick for all, when the majority are painfully slow to respond or entirely non-compliant.

One Cornell University study found that violations of copyright are acted upon quicker than the reporting of NCII content. The amendment would ensure, vitally, that online services remove duplicates of the content. It is designed to complement the Online Safety Act, under which tech companies have to proactively ensure that this priority illegal content is removed from their sites. At present, however, there is no system in place for individuals to report directly to Ofcom. This amendment would ensure a reporting and removal mechanism for victims or any other person who believes a breach of Section 66(b) of the Sexual Offences Act has been committed, and it would provide a maximum time frame.

Amendment 295BB would strengthen the law on deletion orders. While I am pleased to see the Government's clarification in the Bill that intimate images used to commit an offence, and anything containing them, should be seen as being used to commit an offence under Section 153 of the 2020 Sentencing Act, I believe we must go further.

Research by journalist Shanti Das published in February this year found that, of the 98 intimate image abuse cases prosecuted in magistrates' courts in England and Wales in the preceding six months, only three resulted in deprivation orders. No one should have to live in the knowledge that their convicted abuser is allowed to retain content used to commit the crime. This amendment would direct the prosecutor to lodge a deletion verification report within 28 days, verifying the destruction of the content and ordering the defendant to hand over the passwords and authenticators needed to access the material. There is still too much ambiguity in the law around this, and the victims of intimate image abuse are paying the price.

Amendments 295BC and 295BD would compel the Secretary of State to implement a hash registry for non-consensual intimate content, which providers must use to prevent the re-upload or distribution of NCII material. The amendment implements a hash-sharing system that offers survivors the peace of mind that their non-consensual content will remain offline. A hash is a unique value assigned to an image. Importantly, duplicates have the same hash value. Hashing preserves the victim's privacy, as only the hash and not the content itself would be stored in the register.

This system means that victims can use two options to ensure that their content stays offline: prosecuting and going through a criminal court or privately hashing the content without prosecuting. Some survivors may use both options, but hashing is an important option for those who feel unable to face criminal proceedings. We already have a precedent for how this would work, as CSAM content is hashed in the same way. These amendments are a vital step to assure victims that their content will no longer trend online.

6.30 pm

Amendments 295BE, 295BF, 295BG, 295BJ, 298A, 299A and 300B seek to tackle the growing concern of sexually explicit audio being used to circumnavigate the image-based abuse offences. This amendment mirrors the image-based abuse offences and would make it an offence to record, install equipment to record, request the creation of, create or share audio that a reasonable person would consider to be sexual in nature without their consent. The 2022 Law Commission report stated that:

"If, in the future, it is deemed necessary and appropriate to criminalise taking, sharing or threatening to share sexual audio-recordings without consent, it is possible that any such offences could be based on our recommended intimate image offences".

This is exactly what these amendments seek to do.

It is now nearly a year since this issue was first raised by the noble Baroness, Lady Gohir, and the Government's response was that they would continue to keep it under review. Since then, the Revenge Porn Helpline has seen an increase in the number of cases reported to it. In New Zealand, there was a case where a man was accused of secretly recording audio of sex workers. Other victims have come forward in the UK with cases of audio of them having sex or conversations about sexual activity being shared online. In this House, we frequently discuss the importance of continually horizon-scanning and ensuring that we are agile in our response as harms arise. I implore the Government to act now and not wait for the scale of abuse to escalate before we decide to take action.

Amendment 295BH provides a definition of what it is to take an intimate image. It uses the definition of "taking" from the Parliament of Victoria in Australia, which uses the word "capturing" in order to bring screen-shotting into scope. The Law Commission recommended that screenshotting should be in scope of the taking offence for cases where a person has consented to being in an intimate state on a video call but has not consented to the image being captured.

However, I believe that we should go further than the Law Commission advice and include the non-consensual screenshotting of intimate images sent by disappearing messages or Snapchats. It is common practice for intimate images to be shared in this way, but it is important that in these scenarios we remember that consent has been given for a limited time and that capturing the image to keep permanently is a violation of that consent. The wording would also allow for the legislation to be future-proofed for the way in which capturing an image may evolve over time.

Amendments 296, 297 and 299 seek to extend the time limits imposed by a summary offence and build on the precedent established for the creation and requesting offences in Sections 66E and 66F of the Sexual Offences Act, as created by the data Act. They will give the pre-existing sharing offence, which is Section 66B of the Sexual Offences Act, and the new taking and installation offences, which are new Sections 66AA and 66AC, parity in the law with other image-based abuse offences. I am pleased to see that the Government have tabled their own Amendment 300 in response to this, which is very welcome, to ensure that victims are not inadvertently timed out of seeking justice because of the six-month time limit on summary offences.

Amendments 298B and 300A seek to address the frequent practice of perpetrators providing personal information about victims alongside the non-consensual requests for intimate content or the non-consensual sharing of intimate content by making it an aggravating factor for the offences. Victims have described the trauma invoked when they see perpetrators reference details such as where they went to college or the town where they live.

This amendment is based on the experience of a survivor, Jane, who stated:

"Intimate images of me and 18 other women in my area were posted without our knowledge, on a location-based, non-consensual image-sharing platform. Many of these images were stolen by hacking our social media accounts and grouped by our names and location. We became easily identifiable, and in some cases, women's LinkedIn profiles were posted alongside their intimate photos. Since my personal information was published, I no longer feel safe in my own hometown. Places that once felt familiar and comfortable now feel threatening, and public spaces I used to enjoy are overshadowed by the constant fear that my safety is at risk".

This amendment seeks to acknowledge in law the additional distress that the sharing of this type of information causes victims and would ensure that it is taken into account when prosecuting.

Amendment 299B would add to the definition of "intimate state" in Section 66D of the Sexual Offences Act the words,

"something else depicting the person that a reasonable person would consider to be sexual because of its nature".

Noble Lords may remember that I tried to address the problem of semen images in my Private Member's Bill. Sometimes sickeningly referred to as "tributes", this is when men degrade women's images with semen, whether real or AI generated. As our law stands currently, the definition of "intimate state" means that, if a woman is not nude or participating in a sexual act, her only legal recourse if this image is shared is by way of a communications or harassment offence. It is vital that this rapidly growing form of abuse is brought into the scope of the pre-existing requesting and sharing offences, as well as the new taking offence.

I was deeply concerned by the dossier that campaigner Jess Davies put together, demonstrating the scale of this issue. It detailed countless examples of women's pictures being uploaded with sick and degrading requests for them to be Photoshopped with semen or for men to physically defile them. This abuse is happening not just in the dark corners of the internet but on platforms such as TikTok.

Jess has bravely shared her experience of being targeted by this form of abuse. She said:

"It feels extremely degrading to see yourself in those images and knowing I have no control over this image existing online made me feel powerless. A decade on from discovering my own images had been exploited in this way, during my research into this harm I discovered several accounts on TikTok dedicated to this content. Some of these videos had tens of thousands of views and saw users asking men to create semen videos and images of their family members. Some users were doing so for a fee, others just to take part in these women's humiliation".

This can be remedied with a simple adjustment to the law. We must not wait to act.

My Amendments 333 and 334 on spiking would add recklessness to the offence. It is important that this law reflects the reality of what can happen when a person is spiked. The perpetrator may not intend to injure, aggrieve or annoy the victim, or intend any particular outcome at all. However, they may be reckless as to the outcome of their behaviour. It is vital that we have clarity in law. The very point of this new offence is to bring clarity to the law. I ask the Minister for her assurance that scenarios such as a university friend claiming that they were helping to cheer up a friend by administering a substance without consent would be in scope of the offence as written. I would like reassurance on whether recklessness is covered within the law and why it is not explicitly written in.

[Baroness Owen of Alderley Edge]

My Amendment 356B seeks to extend Section 35 of the Domestic Abuse Act 2021 to make domestic abuse protection orders suitable for a digital age. While the law is clear that a court may, by a domestic abuse protection order, impose any requirement that the court considers necessary to protect the person, and the law makes a list of suggestions under subsections (4) to (6), with examples of the type of provision that may be made, these suggestions tend to relate to physical locality. It is possible already under the law for someone to make an order that includes tech-facilitated abuse, but my concern and that of Refuge is that it may be dependent on the knowledge that the person imposing the order has of this form of abuse.

My amendment is based on the experience of a survivor, Iman, and supported by the charity Refuge. The amendment would add to the list of protections that may be imposed, such as preventing abusers using tech to contact their victims indirectly, publish material relating to the survivor or purporting to originate from them, or contact third parties to damage the survivor's reputation, harass or intimidate them.

It is important that these orders reflect the reality of a digital age and that those imposing the orders are prompted to think of the way that technology may be used to circumnavigate pre-existing protections. Refuge gave the example of a perpetrator continuing to abuse their victim by leaving negative reviews on the victim's business. Iman said:

"I continue to live in fear that, were my perpetrator to undertake these actions, the order I have in place does not prohibit such conduct".

Future survivors should never have to face such fears.

We have made much progress on intimate image abuse and tech-facilitated abuse, but it is vital that we always remain one step ahead of those who seek to harm others in this appalling way and put in place clear, comprehensive legislation. I beg to move.

Baroness Chakrabarti (Lab): My Lords, I rise in support of all the amendments in the name of the noble Baroness, Lady Owen of Alderley Edge. I signed two of the offences in relation to the time-limit extension, and therefore I share the noble Baroness's pleasure that the Government have effectively accepted that principle and brought forward their own amendments as I understand it.

The noble Baroness's other amendments, it seems to me, are worthy of an equivalent response. I need not repeat the reasons for this, because her speech was so comprehensive and clear. I will just say that, in a still relatively short period of time, not just in this Committee but in this House, the noble Baroness, Lady Owen, has raised herself to one of the leading human rights campaigners in this country. Let that silence all those who think that relative youth is a disqualification for being in your Lordships' House.

With that in mind, and as a brief reminder of the two new sections of the Sexual Offences Act 2003 that are really down to the campaigning of the noble Baroness, I wonder if my noble friend the Minister, in her reply to the group, could give the Committee some insight into the timetable for implementing what will be, I believe, Sections 66E and 66F of the Sexual Offences Act 2003. These are the new offences of creating, and of requesting the creation of, sexually explicit deepfake images without consent. These were passed in the Data (Use and Access) Act earlier this year, after a great deal of sweat, toil and solidarity from around the House for the noble Baroness, Lady Owen. I am sure that my noble friend the Minister will be keen to get these implemented as soon as possible. In the light of frustrations expressed in earlier groups about the speed of implementing these policies, I wonder if we could hear on that.

Lord Hacking (Lab): My Lords, I enthusiastically join my noble friend Lady Chakrabarti in praising the noble Baroness, Lady Owen. I was in the House—it was on a Friday—when she first moved her Private Member's Bill. The Minister then was the noble Lord, Lord Ponsonby, and he promised that the Government would review and come to the assistance of the noble Baroness. What she is doing now is quite amazing, with a number of very detailed amendments. I will hold myself here to await what my noble friend the Minister will say in reply, but I do hope she will be very positive.

Baroness Kidron (CB): My Lords, I rise to add my voice to the praise for the noble Baroness, Lady Owen—me too—and to put on record my support. I believe the noble Baroness did such a detailed, forensic laying out of her amendments. I would just like to make a couple of points.

During the passage of the Online Safety Act, we had a lot of discussion about an ombudsman. It was very much resisted. At the same time—in the same time-frame as that Bill took place—I was an adviser to the Irish Government, who put in an ombudsman. I think we are missing something. It was a very big part of the previous discussion about chatbots and so on in an earlier group. I very firmly agree with what the noble Baroness said as she laid out her amendments: we really need a way of alerting the regulator to what is going on, and it is not adequate for the regulator to have only an emerging harms unit that is waiting for us to fill in a form, which is the current state of play. I leave that with the Minister as a problem that needs solving.

6.45 pm

I also really want to reiterate this idea about things that happen online and how they land in real life. Some noble Lords will be aware of a quite horrific explosion of online abuse in Korea about a year ago. One of the things that struck me at the time was that knowing where the woman lived plus having something to shame them with then coerced them into further acts, some of which were not illegal, such as licking a toilet floor, but the coercion was built into a scenario by having more than one piece of information. Again, I really want to underline what the noble Baroness said about that and say that something that seems incremental, perhaps a little less important, in conjunction with other things becomes a hugely powerful tool of coercion.

I slightly hesitate to do this, but, on the basis that no good deed goes unpunished and the Government managed to put in a new priority for the strangulation

offence—and I add my congratulations, as I did when I last spoke—but the detail with which the noble Baroness has laid out her amendments speaks to the need for the Government to transfer this into existing legislation to make sure that we have caught up, to use the Secretary of State powers and so on. We cannot keep on waiting. My biggest urging throughout the whole of this Committee stage will be for action and to say that better can be the enemy of best. The noble Baroness has done her homework, and I am sure she is open on the drafting itself, but the point she is making is that there are these holes and we need them fixed in order to protect women.

I will finish by saying this: I often stand up and say, "What's wrong with innovation?"—certain sorts of innovation—but I would also like to say on the record that innovation is not a zero-sum game. If these things were a hoover or a fridge, they would be recalled by now if this were the harm they did. I really just want to say that I am delighted that the tech team around the House—which is ever growing, I might say—is very practical in its nature. None of us is looking for a 100% perfect world, but we do want 80%. The noble Baroness has put it forward, and I really hope that the Government listen.

Baroness Bertin (Con): My Lords, I rise to support my noble friend Lady Owen. I will be mercifully brief, because I have spoken a lot this evening, but I want to reiterate—me too—that she has done an amazing job. She is so determined, she gets down into the detail and is so thorough, and she gets it over the line—she gets stuff done. Thank goodness for people like her in this House. I thank her for that.

My noble friend made the case very powerfully about how threatening and insidious the sharing of intimate images is, particularly with the location layered on. This is all about degradation, intimidation and scaring and threatening women, essentially. As the noble Baroness, Lady Kennedy, said in an earlier debate, this is not the dignity and respect that we were promised, frankly, and technology is being used to take that away and is incredibly regressive.

I support all the amendments, but I want to talk briefly about the amendment on upgrading domestic abuse protection orders to make them fit for the digital age. I cannot tell the Committee how many victims I have encountered who 100% say that the abuse by their perpetrator carries on. It gets worse, arguably. We must make sure that those orders reflect that, because that is where so much of the abuse is happening. It also affects the children involved in this situation. In a particular case that I am concerned about at the moment, the perpetrator is constantly posting on social media, knowing full well that his children are going to see those posts, and on it continues. I hope the Government will take on board these amendments. Again, I say well done to my noble friend.

Viscount Colville of Culross (CB): My Lords, I am pleased to support the noble Baroness, Lady Owen, in the latest stage of her campaign to stop online image abuse. I too applaud her success against deepfakes in the Data (Use and Access) Act. The Government have done much good work to progress that campaign in this Bill, but the distribution of these images, which causes so much harm, must be stopped. As many other noble Lords have said, we need to ensure that the Bill creates the powers to stop the sharing of these images across the internet. Noble Lords who were involved in the debates on the Online Safety Bill understand that ensuring that the tech companies stop the prioritisation and dissemination of harms is central to stopping harm being spread on the internet. Amendment 299 and the others in this group will do that.

I shall focus on Amendments 295BC on hashing and 295BD on the NCII register, which will be crucial to ensuring that any sharing of intimate images will be radically reduced and, I hope, stopped. There has been good work by the Internet Watch Foundation in hash matching and setting up a register of illegal intimate images of children. It is funded by the industry and has been effective in massively reducing the traffic in CSAM. If these amendments are adopted, it will be a great thing to bring these protections to the adult online world. Verification of NCII is already expanding. It happens at platform moderation level, where there are measures to increase the number of images verified by training NGOs on submissions to the StopNCII.org portal. This will ensure that they will submit hashes globally via a global clearing centre. There is work under way with the national centre for violence against women and girls to improve police response to NCII abuse, so they can proactively report content for removal and hashing. However, it needs to be mandated to ensure that this system becomes more extensive.

I urge that, if these amendments are accepted, hash-matching technology remains nimble. I understand that MD5 video hash-matching technology might not respond to slight tweaks of a video. As a result, the video cannot be checked against the register, rendering hash matching ineffective. Other technologies, such as PDQ for stills, looks at the perceptual nature of the image and can still create a match, even if the image is cropped or edited. I urge the creators of hash-matching technology to continue the arms race against AI and ensure that subtle AI tweaks to a hash-matched image can be matched on the NCII register. StopNCIA software is already doing an amazing job in generating 1.8 million hashes and preventing thousands of intimate images being shared across the internet. Imagine how effective it will be if this technology is mandated for adult NCII for all platforms and enforced by Ofcom. I urge the Minister to accept these amendments and save thousands of users from harm and misery.

Baroness Ritchie of Downpatrick (Lab): My Lords, I add my support to the amendments in the name of the noble Baroness, Lady Owen. Since she arrived in your Lordships' House, she has made the issue of online abuse her passion and her life's work, and for that I congratulate her. These amendments deal with intimate image abuse, spiking, domestic abuse and the online abuse of women, by and large. Although there are many positive attributes of the internet and online and digital technology, there are also the downsides and how it is used as a weapon of abuse. Will the Minister see what she can do with her ministerial colleagues in the Home Department to try to accept

[Baroness Ritchie of Downpatrick]
some of these amendments by way of government amendments on Report? They are worthy of inclusion in this Bill.

Baroness Gohir (CB): My Lords, I was unable to speak at Second Reading about the amendments to which I have added my name. I am extremely grateful to the noble Baroness, Lady Owen, for her persistence in pursuing the issues that she raised about a year ago. I highlighted the problem of sexually explicit audio recordings during the debate on her Non-Consensual Sexually Explicit Images and Videos (Offences) Bill. I am therefore thankful that she has brought forward amendments to this Bill to address audio abuse. I too admire her tenacity. I fully support everything that she has said today.

I will speak specifically about audio abuse and those amendments. Although I commend the Government on strengthening the law relating to non-consensual recording of intimate images and film, I cannot understand why audio has been excluded. It appears as though the Government wish to wait for there to be a significant number of cases before taking action, but why wait? How many cases do we need? It should surely be enough to recognise that this abuse is already occurring and that it can easily escalate further. Intimate audio can easily be captured on mobile phones. We can clearly foresee the consequences of sharing such recordings and how they can be used to humiliate and intimidate, and cause alarm and distress, because voices are recognisable. As I indicated last year, the helpline that my charity, Muslim Women's Network, runs has had cases, and the noble Baroness, Lady Owen, gave examples of cases, so how many more do we need?

We are perpetually playing catch-up when it comes to responding to new forms of abuse. Perhaps for once we can get ahead of the problem before audio abuse becomes widespread. I want to borrow a phrase from my noble friend Lady Kidron, who said we should lay the tracks ahead of the train—or something like that. Today, time and again we have heard that the Government need to be one step ahead. The question is why they do not want to be one step ahead on so many of the amendments we are talking about today. As legislation around image abuse tightens, perpetrators will inevitably look for other avenues through which they can control, threaten and shame victims. I therefore urge the Minister to address intimate audio recordings in this Bill.

Baroness Sugg (Con): My Lords, I support the amendments in the name of my noble friend Lady Owen, which have been signed by noble Lords across the Committee. I welcome the Government's Amendment 300 to extend the time limit for the sharing offence, which my noble friend's amendments also seek to do.

My noble friend's amendments on deletion, audio abuse, doxing, semen images and the definition of "taking" already aim to deal with activity that is, sadly, on the rise, and to recognise the real trauma that these activities cause the victims—trauma that sadly continues long after the initial offence. The technology around non-consensual images is very complicated, but we have some precedents where solutions have been found elsewhere. I am particularly interested to hear from the Minister on two issues: the 48-hour takedown, which we seen happen in the US, and the hash registry and hash sharing—I was grateful to my noble friend for setting out so clearly what they do. It strikes me as a bit chicken and egg here. The tech is there, but we need to demand progress in order to see progress.

Extending pre-existing domestic abuse protection orders would recognise another development that we are sadly witnessing, with perpetrators using the online world to further their abuse. Taking this opportunity to extend the scope of domestic protection orders will help stop this form of abuse and reflect the reality of the digital age that we are living in.

Technology is rapidly evolving, as we have heard in the example of audio abuse. It is a challenge to ensure that our legislation continues to be fit for purpose, but that is what these amendments seek to do, and in some cases to future-proof it as well. Non-consensual intimate images are an escalating harm. These amendments address critical operational gaps and work towards the systemic protection that we should have in this area.

7 pm

Lord Banner (Con): My Lords, I too support these amendments. I declare an interest of sorts in that I have a young daughter who is fast approaching her teenage years. The idea that she might one day be the subject of the kind of despicable abuse that my noble friend Lady Owen and others have outlined is utterly terrifying, so I am determined to do my part to secure its eradication.

My noble friend Lady Owen outlined the case for her amendments with all the skill and more of any King's Counsel, so I do not need to say very much, but I want to highlight, in particular, her call for Parliament to be agile on this subject. The speed of proliferation of the kinds of abuse she has talked about risks Parliament looking lead-footed and out of touch if we do not take the further steps that she advocates through her amendments. There is no place for wait-and-see incrementalism in this area.

Any concerns about freedom of expression under the Human Rights Act, which from time to time we hear whispers of, are in my view entirely misplaced. The right to freedom of expression is qualified; it is not absolute. It is plainly not a licence to abuse. I ask rhetorically, and genuinely seeking an answer from the Minister: why not do it?

Baroness Coffey (Con): My Lords, I have signed Amendment 334 on spiking, but I want to congratulate my noble friend Lady Owen of Alderley Edge as she yet again leads the way on the important issues in her other amendments.

Clause 101, on spiking, is certainly welcome. The measure appeared in the previous version of the Bill in the previous Parliament, and I give credit to Richard Graham, the former MP for Gloucester, who brought this to the attention of Parliament. More broadly, I have a little question for the Minister. I am always very nervous when civil servants recommend that we remove things from existing legislation. I notice that the clause will remove Section 22 and Section 23 at the

beginning and then there is the broader new Section 24. What has driven that? Too often things disappear and end up with some kind of defect or loophole. That is exactly what concerned my friend Joe Robertson MP, who tabled an amendment like my noble friend's Amendment 334 on Report in the Commons, having tabled something similar in Committee. His concern was that there is a loophole and that spiking by a reckless act should also be an offence.

I do not need to persuade your Lordships that spiking is a hideous, heinous activity which can destroy people's physical and mental health. The evidence given by Colin Mackie from Spike Aware UK at Committee stage in the Commons was compelling, especially as it was driven by his personal experience of his 18 year-old son Greg dying through suspected spiking of the kind now known as prank spiking.

At the moment, Clause 101 provides that there has to be an intent to injure, aggrieve or similar. I know that Ministers in the other place felt that the Bill covers recklessness, but I think it is pretty clear that the legislation does not particularly seem to cover prank spiking.

Recklessness is a well-trodden principle in criminal law, dating back a couple of hundred years. It is definitively an alternative to intent so, if the prosecution fails to establish that someone meant to do something, it can also establish that their actions were so reckless that they should be convicted. Indeed, this is what manslaughter is—somebody gets convicted of killing but without having the intent to commit murder. The other example, perhaps not quite so dramatic, is actual bodily harm. The prosecution must establish the harm but can do so on the basis that what was done was reckless so that harm was bound to follow rather than simply that someone intended for harm to happen.

I hope the Government will reconsider their conclusion that what we have before us in Clause 101 is sufficient. I understand that it may be that one MP has got particularly focused on this campaign, but it took Richard Graham to get focused on the issue of spiking for it to make any progress into legislation in the other place. I am grateful to this Administration for picking that up. I look forward to hearing from the Minister and hope again that there may be room for some consensus, not just compromise, on how we can make sure there are no loopholes in this law.

Baroness Shawcross-Wolfson (Con): My Lords, I also support the amendments tabled by my noble friend Lady Owen and will try to keep my remarks as brief as possible. As we have heard today, technology continues to provide new avenues for abuse, in particular for the abuse of women. Abusers use technology in ever more inventive ways to harm, harass and try to humiliate their victims. Thanks to the work of my noble friend Lady Owen and others in this House, the law has made huge strides in recent years; however, more needs to be done.

Broadly, these amendments fall into two categories: those that seek to update the law to ensure that it addresses new and growing forms of tech-enabled abuse, and those that seek to provide more effective support to the victims of non-consensual intimate image abuse. We need action on both fronts. I will not go into detail here, as it has already been covered, but I will just reiterate that some of the gaps that need to be closed are: updating our definition of what constitutes taking an image; including audio recordings in the framework for tackling non-consensual intimate images; ensuring that images which may have been innocuous when they were taken but are then transformed into something sexual or degrading are also captured by the law; and, finally, recognising the practice of doxing as an aggregating factor.

Unfortunately, we know that, however the law changes, abuse will not be eliminated any time soon, so we must also ensure that the law supports victims in the aftermath of their abuse. As it stands, there is no proper framework to ensure that intimate images that the courts have found to be taken or shared illegally are then removed and destroyed. Instead, survivors see their images being repeatedly uploaded, posted on to pornography sites, shared in anonymous chat forums and even allowed to remain untouched on their abusers' devices or cloud accounts. It cannot be right; the law must change. Between them, Amendments 295BA, 295BB, 295BC and 295BD would create a proper mechanism for victims to ensure that images are promptly removed from online platforms, deleted and then hashed to prevent them from resurfacing elsewhere.

Making progress on this issue is crucial. We know the trauma caused to victims who have to live with their images remaining online or live with the knowledge that they could be re-uploaded at any point. As one survivor told the Women and Equalities Committee:

> "I am terrified of applying for jobs for fear that the prospective employer will google my name and see. I am terrified when meeting new people that they will google my name and see. I am terrified that every person I meet has seen".

We cannot allow this situation to continue. The amendments from my noble friend Lady Owen would make the law more effective, more enforceable and more protective to victims, and I hope that we will be able to make progress on them in this House.

Baroness Maclean of Redditch (Con): My Lords, I add my voice to the support for my noble friend Lady Owen from across the Committee. She has done a great service to victims of these crimes all across the country, most of whom we know are women and girls, but men and boys can be affected too.

I will focus on Amendment 334 which, as my noble friend Lady Coffey has mentioned, would add the word "reckless" in relation to the spiking offence. This is very important. I remember being the Home Office Minister when the phenomenon of needle spiking first hit the headlines. It focused a lot of attention on spiking in general as a phenomenon and meant the Home Office had to put its focus and resources behind it. We found it was very difficult to prosecute these crimes. Often, the substance had left the body. Often, victims were blamed for their behaviour, for putting themselves in those situations.

When I went to talk to the victims, I often heard that they thought that people were just doing it for a laugh, and a lot of the hospitality industry—bars, clubs and festivals—said the same thing. They said that it was really inadequate to have the requirement

[Baroness Maclean of Redditch]
to prove harm or a sexual motive. That was part of the reason, though not the whole reason, why we have seen such a woefully low level of prosecutions for this. It is my belief that we need to make sure we include this recklessness element, and that is also the belief of most of the campaigners that I have worked with, including Stamp Out Spiking and, of course, Richard Graham, who did a tremendous job. I hope that the Government will adopt this amendment and all the others.

Lord Clement-Jones (LD): My Lords, it has been a privilege to take part in today's Committee. I think anyone reading *Hansard* subsequently will get a much better insight than they ever had before of the risks and experience of young women and girls in today's world, sadly. It has been a privilege listening to all the speeches, particularly on these amendments.

Like others, started by the noble Baroness, Lady Chakrabarti, I pay tribute to the noble Baroness, Lady Owen of Alderley Edge, for the forensic way she has identified the digital loopholes that currently allow abusers to evade justice. As we have been reminded, she has been a doughty campaigner on the Data (Use and Access) Act, with a winning streak that I hope will continue.

At the same time, I welcome the government amendments in this group, which at least signal a positive direction of travel. For far too long, victims of intimate image abuse have been timed out of justice by the six-month limit on summary offences. The noble Baroness, Lady Owen, identified this injustice, and I am delighted that the Government have listened with their Amendment 300. Then, of course, we have a number of other amendments. The noble Baroness's amendments go further than time limits; they address harms that the Bill completely misses.

In particular, I highlight Amendment 298B, which addresses the malicious practice known as doxing. It is a terrifying reality for survivors that perpetrators often do not just share an intimate image; they weaponise it by publishing the victim's address, employer or educational details alongside it. This is calculated to maximise distress, vulnerability and real-world danger. This amendment would rightly establish that providing such information is a statutory aggravating factor and would ensure that the court must treat this calculated destruction of a victim's privacy with the severity it deserves.

While we welcome the government amendments regarding deprivation orders, I urge the Minister to look closely at Amendment 295BB, also in the name of the noble Baroness. Current police powers often focus on seizing the physical device—the phone or laptop—but we live in an age of cloud storage. Seizing a phone is meaningless if the image remains accessible in the cloud, ready to be downloaded the moment the offender buys a new device. Amendment 295BB would create a duty for verified deletion, including from cloud services. We must ensure that when we say an image is destroyed, it is truly gone.

I also strongly support the suite of amendments extending the law to cover audio recordings. As technology evolves, we are seeing the rise of AI-generated audio deepfakes—a new frontier of abuse highlighted by the noble Baroness, Lady Gohir, and the Revenge Porn Helpline, as we have heard today. I pay tribute to her for raising this issue. By explicitly including audio recordings in the definition of intimate image offences, these amendments could future-proof the legislation against these emerging AI threats.

Finally in this area, Amendment 295BD offers a systematic solution: a non-consensual intimate image register using hashing technology, which was so clearly described by the noble Baroness, Lady Owen. We cannot rely on a game of whack-a-mole, where victims must report the same image to platform after platform. A hash registry that identifies the unique digital fingerprint of an image to block its upload across providers is the only scalable technical solution to this problem.

Like the noble Baroness, Lady Coffey, we also welcome the new offence of administering harmful substances in Clause 101, but the current drafting requires specific intent to "injure, aggrieve or annoy". Perpetrators of spiking often hide behind the defence that it was just a prank or done to liven up a friend. This leaves prosecutors struggling to prove specific intent. Amendment 334 would close this gap by introducing recklessness into the offence. If you spike a person's drink, you are inherently being reckless as to the danger you pose to that person. The law should reflect that reality, and I urge the Government to accept this strengthening of the clause.

Finally, we support Amendment 356B, which would modernise domestic abuse protection orders. Abusers are innovative; they use third parties and digital platforms to bypass physical restrictions. This amendment would explicitly prohibit indirect contact and digital harassment, ensuring that a protection order actually provides protection in the 21st century.

7.15 pm

This group of amendments, as I believe we all agree—there has not been a dissenting voice—represents a modernisation of our personal safety laws that is long overdue. I hope the Minister will accept the logic of these proposals, particularly regarding doxing and recklessness, and I hope the Government recognise that they meet the Government's own objectives.

In closing, I very much share the impatience of the noble Baroness, Lady Kidron. We have a widening group of those interested in online safety, who have taken a strong interest ever since the Joint Committee on the Draft Online Safety Bill. We will keep pressure up on the Government, but I very much hope that they will not need too much pressuring and will respond with alacrity to these amendments.

Lord Cameron of Lochiel (Con): My Lords, I thank my noble friend Lady Owen of Alderley Edge for bringing these important matters to your Lordships' Committee and for speaking so passionately and clearly about the subject matter of her amendments. There is very little that I can add. My noble friend has an impressive track record in this area, her Private Member's Bill being a striking example of that, and these amendments are very much in the same vein. As she made clear, we must all remember what is truly important here, and that is the victims of these events. They must be at the centre of all our debates, and today they have been.

I am very pleased that my noble friend has retabled Amendments 333 and 334, which were brought forward in the other place by my honourable friend Joe Robertson MP. The omission of recklessness as part of the offence of spiking is, as many noble Lords have said, a severe oversight by this Government; we believe that it should be rectified. My noble friend Lady Owen has our full support for this amendment and our broad support for the rest of her amendments.

Finally, I draw the Minister's attention to my Amendment 295C, which is a probing amendment. By way of background, Schedule 9 inserts new Sections 66AA and 66AB into the Sexual Offences Act 2003. New Section 66AB contains exceptions to the new offences of taking or recording intimate photographs or films, and its subsection (3) contains an exemption for healthcare professionals who are taking intimate photos of a person who is under 16 and lacks the capacity to consent. My probing amendment would remove the provision that the person has to be under 16 for the exemption to apply. It seeks to probe the Government about a situation where, for example, a doctor has a 30 year-old patient with severe learning disabilities or an 80 year-old patient with dementia. Neither has the capacity to consent, but the doctor has to take a photo of the patient in an intimate state to show the patient's condition to their consultant, for example. That doctor would not be included in the exemption and therefore would be liable to prosecution.

This is simply to try to understand the Government's reasoning because, if the exemption is to apply—and it should—there should be no distinction based on age. The doctor is performing the same professional duty to a person who is 15 and cannot consent and a person who is 18 and cannot consent. I will be grateful if the noble Baroness can clarify that particular point.

Baroness Levitt (Lab): My Lords, I join with all other Members of your Lordships' Committee in expressing gratitude to the noble Baroness, Lady Owen, for bringing forward this large group of amendments, as well as to the noble Lord, Lord Cameron of Lochiel, for bringing forward Amendment 295C. I am also pleased to commend government Amendments 300 to 307 in my name, which make two changes to the existing intimate image abuse provisions in Clause 84 and Schedule 9.

This is an eclectic, disparate and rather large group of amendments. I will endeavour to address them in as concise a manner as I can, but it is going to take a bit of time, so I hope your Lordships will forgive me. I start by stressing that the Government are committed to tackling the complete violation that is non-consensual intimate image abuse. However, before I turn to the noble Baroness's amendments, I want to make a few general comments that apply to many of the amendments in this group, and to some of the others that are being considered by your Lordships' Committee today.

I start with a comment with which I am sure we can all agree: it is essential that the law is clear and easy to interpret. In that context, I make the following observation, not so much as a Minister, but drawing on my past experience as a senior prosecutor and judge. It is very tempting to add new offences to the statute book. Some of these are intended to spell out the conduct of which society disapproves, even when it is already caught by more general offences—or, some would say, to make something that is already criminal, more criminal.

It is tempting to say that, if such an additional offence makes no substantive change, then why not—the Government should simply accept it. However, such changes are not always without consequence. In my experience, it can sometimes make it harder to prosecute, and thus secure convictions, when there are a number of different offences on the statute book, all of which cover the same behaviour but often with slightly different elements or maximum penalties. I know that that is absolutely not the intended effect of many of these amendments, but I would gently suggest to your Lordships that it is worth bearing in mind that legislating for large numbers of new offences may not be without adverse consequences.

That said, I have the utmost respect for the noble Baroness, Lady Owen. She and I share the determination to deal with some pretty repellent behaviour that has the ability to ruin victims' lives; the question is how best to achieve it. As I said before, I want to make it absolutely clear that the Government and I are very much in listening mode. I was very pleased to meet the noble Baroness recently, and I thank her for that. I wanted to understand better the intentions underlying some of her amendments, and I look forward to working with her closely over the coming months.

I am thankful for the contributions of my noble friends Lord Hacking, Lady Curran and Lady Chakrabarti. I am afraid that I am going to have to disappoint my noble friend Lady Chakrabarti on the implementation date for the deepfake legislation, as she will probably not be surprised to hear. It will depend on a number of factors, and I cannot give her a date today. I also thank the noble Baronesses, Lady Bertin, Lady Maclean, Lady Sugg and Lady Shawcross-Wolfson, and the noble Baroness, Lady Kidron, who was kind enough to leave the question of the ombudsman with me. I am also thankful for the contributions of the noble Lords, Lord Clement-Jones, Lord Banner and Lord Cameron, and the noble Viscount, Lord Colville.

I turn now to this group of amendments. Amendment 295BA seeks to create a reporting mechanism for non-consensual intimate images to be removed within 48 hours. The Government recognise the calls to go further than the existing protections afforded by the Online Safety Act. We share the concern that some non-consensual intimate images remain online even after requests for removal have been made by the Revenge Porn Helpline. Worse still, some remain online following a successful conviction for non-consensual intimate image offences. We absolutely acknowledge this problem. I reassure the noble Baroness that we are considering how best to tackle this issue, and I hope to be able to provide more detail on the work in this area on Report.

I turn to Amendment 295BB. As I have just said, the Government recognise the harm caused by the continued circulation of intimate images and thus share the intention underlying this amendment. There are existing mechanisms that allow the courts to deprive offenders of images once they have been convicted of intimate image abuse offences. We are already amending deprivation orders so that they can be applied to

[Baroness Levitt]
seizing intimate images and any devices containing those images, regardless of whether the device was used in the offence itself. An example would be an external hard drive: even if it was not used to perpetrate the offence, it can be seized if it has the images on it. This will significantly limit the defendant's ability to retain or access intimate image abuse material.

That said, we recognise that these existing powers were not originally designed with intimate images in mind, and that, as a result, they currently do not extend to devices that contain images but were not directly used to commit the offence. I reassure the noble Baroness that we are taking steps to strengthen the framework.

I turn to Amendments 295BC and 295BD, which were also spoken to by the noble Viscount, Lord Colville. I must say that the noble Viscount slightly lost me with some of the more technical details of what he was describing.

Viscount Colville of Culross (CB): Will the Minister meet with me?

Baroness Levitt (Lab): I am always delighted to meet with the noble Viscount.

Through these amendments, the noble Baroness wishes to create a statutory register of non-consensual intimate images and hashes. Once again, I commend the intention behind the amendments, but I believe that they will lead to duplication of work that I can confirm is already taking place. Organisations such as the Revenge Porn Helpline play a vital role in detecting and removing non-consensual intimate image abuse. That organisation has in place a database of existing hashes of non-consensual images that are shared with participating companies to detect and remove the images from circulation online.

Furthermore, in March this year, Ofcom published its first codes of practice for the Online Safety Act regulatory regime, which set out a range of measures that platforms should implement to tackle non-consensual intimate image abuse. Ofcom is currently reviewing consultation responses on new measures for the codes, which include measures for platforms to use scanning technology to detect intimate images by matching them against appropriate databases of digital fingerprints or hashes of such images. I reassure the noble Baroness that finalised measures will be published in due course.

Amendments 295BE to 295BG, 295BJ, 298A, 299A and 300B all share the purpose of expanding all intimate image offences to include real and purported audio recording of those in an intimate state. The noble Baroness, Lady Gohir, spoke powerfully about the need for this. However, the Government cannot accept these amendments for two reasons. The first is the difficulties in proving such offences, and the second is that we consider that the harm in question is covered in the main by existing offences.

As far as proof is concerned, it is a general truth that being able to identify voices is a great deal more problematic than identifying images. Awkward and possibly embarrassing though this is to be considering in your Lordships' Committee in the middle of the working day, a few moments' thought about the kinds of sounds recorded, given the context, will illustrate some of the difficulties. First, it would be difficult for tribunals of fact, whether magistrates, judges or juries, to determine whether the recorded audio is or purports to be that of a particular person. Secondly, the proposed definition of an intimate audio recording as one "which a reasonable person considers sexual in nature" might be hard to determine from the audio alone. In short, there are concerns about how this could be proved to the criminal standard.

In this context, I refer back to the point I made earlier: the law must be clear and enact only offences that are capable of enforcement. The Government have looked at this closely and seriously, and we have tried to identify cases where intimate audio abuse is alleged. It is our view that there does not appear to be a large number of cases where this happens in isolation. Instead, the reason for the audio abuse is usually to blackmail or harass someone. Both are criminal offences already, with blackmail carrying a significant maximum penalty of 14 years imprisonment. If we are wrong about this, I know that the noble Baroness has said that she will share further evidence with me, and I am sure that this will also apply to the noble Baroness, Lady Gohir. I am happy to discuss this issue further with both of them.

Amendment 295BH seeks to define "taking" for the purposes of the new intimate image-taking offences. In our recent meeting, following the question the noble Baroness raised at Second Reading, I confirmed to her that the proposed "taking" offences as currently defined would not include screenshots, but I understand the harm that the noble Baroness seeks to prevent, and I have asked officials to look at this issue closely. I hope to provide a further update on Report.

Amendment 295C, tabled by the noble Lords, Lord Cameron of Lochiel and Lord Davies of Gower, seeks to amend the base offence set out in Schedule 9. This applies where an image of a person under 16 in an intimate state is taken or recorded for the purposes of medical care or treatment. The noble Lord's amendment recognises the need for the medical exemption, but it would remove the age restriction to prevent the criminalisation of those taking or recording intimate images of a person of any age. Section 5 to the Mental Capacity Act 2005 already provides for specific medical exemptions in cases where an intimate image is taken of someone over 16. I hope the noble Lord will agree that it is therefore unnecessary to extend the provision in this Bill.

7.30 pm

Related to this are Amendments 296, 297 and 299, tabled by the noble Baroness, Lady Owen, and government Amendment 300. Once again, I thank the noble Baroness for bringing forward these amendments. As she set out, they seek to extend the time limit for bringing a prosecution for the remaining summary-only intimate image offences. As your Lordships will be aware, the usual time limit for the prosecution of summary-only offences is six months, but we agree that the very nature of intimate image abuse is such that victims may be unaware that these images of them have been taken, recorded or shared until that period has already passed. It simply is not right that victims of these nasty offences are denied justice in this way.

Therefore, I am pleased to introduce government Amendment 300, which extends the time limit for all summary-only intimate image offences to a period that is both within three years of the offence being committed and six months of the prosecutor having sufficient evidence to justify a prosecution. We consider that this strikes the right balance between the rights of victims and those of defendants, and in the light of this government amendment I hope the noble Baroness will be content not to press her amendments that cover this issue.

Turning to Amendments 298B and 300A, as I have mentioned before, this Government wish to ensure that the courts have adequate sentencing powers to deal with those who are convicted of intimate image offences, but this must be balanced against the principle I set out at the beginning of this short speech: ensuring that the law and available mechanisms for courts are clear and do not simply replicate existing offences or existing powers in another form. So, in this spirit, I hope to reassure the Committee that this kind of behaviour can be—and, in my experience, is—already taken into account at sentencing. Although sentencing in individual cases is a matter for the independent courts, sentencing guidelines already make it clear that, when an offender did something to maximise the victim's distress or humiliation, this can be considered as aggravating that particular offence. My personal experience of sentencing defendants is that judges would not hesitate to do so.

In addition, this conduct, commonly known as doxing, is already covered by a range of criminal offences, including several different harassment and communication offences. The Crown Prosecution Service has issued specific guidance for prosecutors in dealing with social media-facilitated crimes such as these. We have seen no evidence that the police, CPS and courts are failing to consider the existing offences and the statutory aggravating factors available, but of course, as I have already said, I would be happy to consider any evidence and information that the noble Baroness wishes to provide on this matter.

The Government will oppose Amendment 299B, which stipulates that a photograph or video depicting the victim alongside something sexual should be considered intimate. The difficulty is that, as drafted, this is extremely broad, and the reality is that such an amendment is likely to incorporate some images that are not sufficiently harmful to warrant criminalisation. For example, images of fully clothed people posing with sex toys in a sex shop would be caught by this proposed offence, and even a fully clothed person posing with a topless male stripper at a hen night would be caught.

To conclude this cluster of intimate image abuse amendments, I turn to the remaining government Amendments 301 to 307. These make small but important changes to ensure that a court can deprive an offender of an image produced as part of a breastfeeding voyeurism recording offence, as set out in the Sexual Offences Act 2003. Although this offence is not one of our new intimate image offences, it is an important offence, and it is part of a wider package aimed at protecting women.

Amendments 333 and 334, on spiking, were tabled by the noble Baroness, Lady Owen, and supported by the noble Baronesses, Lady Coffey and Lady Maclean. The noble Baroness, Lady Coffey, may be interested to know that it was the Law Commission that recommended the repeal of the 1861 offences, so that is the reason for doing so. The Government do not support these amendments. We are content that extending the definition to recklessness is not necessary for prosecuting or securing convictions. The new offence as drafted deliberately covers a wide range of spiking and non-spiking behaviours, as well as the substances that can be administered. Importantly, there is no requirement, as there was under the previous law, to prove that harm was caused by the administration of substances. So, in short, this offence is very wide and it carries a 10-year maximum penalty.

Although every case will turn on its own facts, where someone spikes another person as a joke or part of a prank, we consider that this is covered by the new offence, as that person will have the intent to injure, aggrieve or annoy. In criminal law, there is a difference between the legal concept of intention and the different, non-legal concept of motive. The motive of the defendant might be to play a joke, but we anticipate with confidence that the courts will readily find that the intention was to injure, aggrieve or annoy. We are fortified in this by the fact that there is case law—

Baroness Butler-Sloss (CB): I was spiked at the age of 16 at a dance by a cousin of the hosts where I was staying. He said afterwards, "I don't know why I did it. I didn't intend to hurt anyone". So there are such situations—having listened to what the Minister said, I note that no one could prove that he had been anything other than rather silly. He was in his 20s and was probably drunk. He filled an orange juice jug with gin, and I spent two days in bed.

Baroness Levitt (Lab): I am extremely sorry to hear about that experience. As ever, I am very grateful to the noble and learned Baroness, for whom the entire Committee has great respect.

As I was about to say, the Government are fortified in our belief that the concept of intention would be proved by the fact that there is case law that establishes that, where ecstasy was administered to another to "loosen them up", that amounted to an intent to injure—intention being separate from the motive. The fact is that defendants say all sorts of things about what they did or did not mean; it will be for the tribunal of fact, looking at what happened, to see whether it can be sure that the intention was as specified in the statute.

We are confident that the types of behaviour that should be criminalised are already captured. Once again, I go back to the important point I set out at the beginning of this group: this new spiking offence aims to simplify the legal framework and to make enforcement straightforward. We do not want to do anything that risks undermining that by overcomplicating the offence.

Amendment 356B, tabled by the noble Baroness, Lady Owen, proposes to expand the scope of prohibited conduct under domestic abuse protection orders. Although I appreciate the motive underpinning this amendment, these orders already allow courts to impose any conditions that they consider both necessary and proportionate to protect victims from domestic abuse. Put simply,

[Baroness Levitt]
setting out a prescriptive list risks narrowing the flexibility and discouraging conditions that are tailored to the conditions of the offender. The police statutory guidance already includes examples, such as prohibiting direct or indirect contact and restricting online harassment, but we are happy to update this guidance to include the additional behaviours mentioned.

This has been a long speech, and I hope your Lordships will forgive me. My intention has been to explain to the noble Baroness, Lady Owen, the noble Lord, Lord Cameron, and all other noble Lords, for whom I have great regard, why the Government cannot support these amendments today. For the reasons I have set out, I invite them not to press their amendments, but I hope they will join me in supporting government Amendments 300 to 307, which I commend to the Committee.

Baroness Owen of Alderley Edge (Con): Before the Minister sits down, can I just check something? On Amendment 299B, she knows that my intention is not to create something that is too broad but to tackle the very real and rapidly proliferating problem of semen images. It would be helpful to get clarification that the Government understand this to be an issue and are willing to work with me so that we can bring back an amendment on Report. Further, on Amendment 295BB, the Minister spoke about physical devices, but I am keen to know how the Government will tackle images shared on the cloud, because this is the real problem. Finally, on Amendment 295BA, the Minister said that more detail would be given. I just want to know whether that will be on Report or between now and Report, so that we can bring back something about the 48-hour takedown on Report. America has already won the battle on this.

Baroness Levitt (Lab): As far as the revolting practice of semen images is concerned—and I do not think anybody in your Lordships' House would think it was anything other than that—if an offence can be drafted that is sufficiently specific, then of course we will consider it. Our concern is that the drafting of the proposed amended offence is so wide that it would capture a lot of behaviour that should not be criminalised. As for the other two matters raised by the noble Baroness, please may we discuss them?

Baroness Owen of Alderley Edge (Con): I am sorry, I realise that people want to get to the dinner break, but will the noble Baroness commit to meeting me, the noble Viscount and the Revenge Porn Helpline on Amendments 295BC and 295BD? She spoke about duplication. These amendments are suggested by the Revenge Porn Helpline; therefore, I do not believe that it believes it duplicates its work. It would be very helpful for us to meet and clarify that.

Baroness Levitt (Lab): The answer to that is a short one: of course.

Baroness Owen of Alderley Edge (Con): I thank the Minister for her responses. I am grateful for the engagement so far with her and Minister Davies-Jones, and I am grateful to all noble Lords for their contributions. I am going to take these points away for further considerations, and I look forward to the meetings that we are going to have, but for now, I beg leave to withdraw the amendment.

Amendment 295BA withdrawn.

Amendments 295BB to 295BD not moved.

Schedule 9: Offences relating to intimate photographs or films and voyeurism

Amendments 295BE to 296 not moved.

Amendment 296A had been withdrawn from the Marshalled List.

Amendments 297 to 299B not moved.

Amendment 300

Moved by ***Baroness Levitt***

300: Schedule 9, page 275, line 38, at end insert—

"6A In section 66H (time limits for prosecuting summary offences)—

(a) in subsection (1), for "under section 66E or 66F" substitute "to which this section applies";

(b) after subsection (1) insert—

"(1A) This section applies to offences under—

(a) section 66AA(1);

(b) section 66AC(1);

(c) section 66B(1);

(d) section 66E;

(e) section 66F.";

(c) for the heading substitute "Intimate images: time limit for prosecution of summary offences"."

Member's explanatory statement

This amendment extends the time limit for prosecuting the summary only offences in existing section 66B(1) of the Sexual Offences Act 2003, and new sections 66AA(1) and 66AC(1) (added by Schedule 9 to the Bill).

Amendment 300 agreed.

Amendments 300A and 300B not moved.

Amendments 301 to 307

Moved by ***Baroness Levitt***

301: Schedule 9, page 278, line 24, leave out sub-paragraph (2)

Member's explanatory statement

My amendments to Schedule 9 paragraph 18 amend section 177DA of the Armed Forces Act to add the provision the Bill currently inserts as section 177DZA. They also provide for images of breastfeeding recorded in circumstances which constitute an offence under section 67A(2B) of the Sexual Offences Act 2003 to be subject to deprivation orders.

302: Schedule 9, page 278, line 38, at end insert—

"(za) in the heading, omit "Purported";"

Member's explanatory statement

See my amendment to Schedule 9, page 278, line 24.

303: Schedule 9, page 279, line 1, leave out from "for" to end of line and insert "the words from "section 66E" to the end substitute "a provision of the Sexual Offences Act 2003 which is listed in column 1 of the table in subsection (3)""

Member's explanatory statement

See my amendment to Schedule 9, page 278, line 24.

304: Schedule 9, page 279, line 1, at end insert—

"(aa) in subsection (2)—

(i) for "purported intimate image to which the offence relates" substitute "item specified in column 2 of the table in relation to the corresponding offence";

(ii) after "the offence", in the second place it occurs, insert "under section 42";"

Member's explanatory statement

See my amendment to Schedule 9, page 278, line 24.

305: Schedule 9, page 279, leave out lines 3 to 12 and insert—

"(3) This is the table—

Provision of the Sexual Offences Act 2003	Item
Section 66AA(1), (2) or (3)	Photograph or film to which the offence relates
Section 66E	Purported intimate image to which the offence relates
Section 66F	Purported intimate image which is connected with the offence
Section 67A(2B)	Image to which the offence relates"

Member's explanatory statement

See my amendment to Schedule 9, page 278, line 24.

306: Schedule 9, page 279, line 13, at beginning insert "Where the corresponding offence is an offence under section 66F of the Sexual Offences Act 2003,"

Member's explanatory statement

See my amendment to Schedule 9, page 278, line 24.

307: Schedule 9, page 280, line 3, leave out sub-paragraph (2) and insert—

"(2) In section 154A (purported intimate images to be treated as used for purposes of certain offences)—

(a) in the heading, omit "Purported";

(b) for subsection (1) substitute—

"(1) This section applies where a person commits an offence under a provision of the Sexual Offences Act 2003 which is listed in column 1 of the table in subsection (2A).";

(c) in subsection (2), for "The purported intimate image to which the offence relates" substitute "The item specified in column 2 of the table in relation to that offence";

(d) after subsection (2) insert—

"(2A) This is the table—

Provision of the Sexual Offences Act 2003	Item
Section 66AA(1), (2) or(3)	Photograph or film to which the offence relates
Section 66E	Purported intimate image to which the offence relates
Section 66F	Purported intimate image which is connected with the offence
Section 67A(2B)	Image to which the offence relates";

(e) omit subsections (3) and (4)."

Member's explanatory statement

This amendment amends section 154A of the Sentencing Code to add the provision the Bill currently inserts as section 154ZA. It also provides for images of breastfeeding recorded in circumstances which constitute an offence under section 67A(2B) of the Sexual Offences Act 2003 to be subject to deprivation orders.

Amendments 301 to 307 agreed.

Schedule 9, as amended, agreed.

Clauses 85 and 86 agreed.

House resumed. Committee to begin again not before 8.24 pm.

Armed Forces Chaplains (Licensing) Measure

Motion to Direct

7.45 pm

Moved by ***The Lord Bishop of Winchester***

That this House do direct that, in accordance with the Church of England Assembly (Powers) Act 1919, the Armed Forces Chaplains (Licensing) Measure be presented to His Majesty for the Royal Assent.

The Lord Bishop of Winchester: My Lords, I shall speak also to the Abuse Redress Measure, which is also in my name on the Order Paper.

The Armed Forces Chaplains (Licensing) Measure is in one sense just a tidying up of a small area of ecclesiastical law, but in a wider and more important way it is enabling and supportive of the essential work carried out by Church of England chaplains to His Majesty's forces, to whom I am sure we all want to pay tribute. For over a century, forces chaplains have been issued with licences by the Archbishop of Canterbury, giving them ecclesiastical authority to exercise ministry in that role. However, recent work by the provincial registrars has identified a gap in the relevant statutory and canonical provision in this area.

Without this Measure, each Armed Forces chaplain would also need to obtain a licence or permission to officiate from the bishop of each diocese in which the chaplain is to exercise ministry. Not only would that give rise to a significant burden on bishops and their offices but, more significantly, it would cause problems for the Armed Forces, not least because chaplains need to be able to move with and minister to military personnel wherever they are currently serving, and sometimes to do so at some speed. It is impractical for them to seek a further authority to exercise ministry each time the service men and women they minister to move to a different part of the country. This Measure addresses that in a straightforward way by inserting a new section headed "Armed Forces chaplains" in the Extra-Parochial Ministry Measure 1967.

That Measure already covers ministry exercised outside the parish context; for example, in hospitals, prisons, universities and schools. The Measure will provide a new statutory power enabling the Archbishop of Canterbury to license forces chaplains to exercise ministry in that capacity: that is, in the exercise of the role of chaplain to which they have been commissioned or appointed under the King's regulations for the relevant service. When exercising ministry under the Archbishop's licence, a forces chaplain will not need

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any further authority, either from the bishop of the diocese or from the minister of the parish where the chaplain's ministry is exercised. That would apply only where he or she was acting in the capacity of a forces chaplain. Any other ministry an individual chaplain might exercise—for example, preaching at a parish church—would remain subject to the usual rules about authority and permission to exercise ministry in a diocese and parish. I hope your Lordships will look favourably on this simple but necessary provision.

Turning to the Abuse Redress Measure, it seems appropriate that we are discussing this now after the powerful Committee stage debate that we have just experienced. The Abuse Redress Measure and associated draft rules lay the groundwork for the Church of England to deliver a redress scheme and confer the necessary legislative power on the Archbishops' Council to delegate decision-making to a third party. In introducing it, I repeat the Church's tribute to those victims and survivors who have continued to give their time and energy to the process of developing this Measure despite the harm which the Church has caused them. I add my own warm personal thanks to them for that assistance.

The Church recognises its lamentable failings, which have made it possible for some people to abuse others while others in the Church of England have been reluctant to face up to unpalatable truths and avoided confronting difficult and painful situations openly and candidly. The Measure and draft rules before your Lordships comprise important elements of trying to right those wrongs. In saying that, the Church, of course, must recognise that, for many survivors, the wait for redress has been too long in coming.

Since the commencement of the scheme's development in 2021, the Church has sought to work through some complex and novel questions, wishing to give careful consideration to the views of victims and survivors. The Church has intentionally adopted a person-centred approach, which enshrines—indeed, in the first section of the Measure—"dignity, respect and compassion" at its heart, and which, considered as a whole, allows for more generosity than the alternative of litigation. Perhaps most crucially, it has been designed to look and feel different from litigation. The scheme is not designed to mirror a court of law or require a decision-maker to resolve triable issues, for which reason the scheme's arrangements do not incorporate all these features, such as disclosure and cross-examination, which noble Lords would expect in an adversarial process, which this is not.

The Church has reflected carefully on the eligibility conditions and has sought to find the right balance, which provides that the scheme responds where a failure within the Church has been the effective cause of abuse but not, of course, otherwise. The Church has also sought to be clear about the nature of abuse, which is in scope, while allowing for appropriate flexibility to respond appropriately in particular cases, taking into account the personal experience of each victim and survivor.

The scheme provides that applicants should have available independent legal and financial advice if they wish to receive it, but not at a level which allows legal fees to consume a disproportionate amount of the redress fund, to the detriment of victims and survivors. The Church has provided for a review of the operation of the Measure, giving the Church's General Synod the ability to hold the Archbishops' Council accountable for the scheme's operation and which allows the General Synod to extend the lifetime of the scheme if it appears necessary to do so.

In closing, I recognise that this Measure does not and could not meet every person's hopes, but it is notable for having commanded overwhelming support at General Synod. I ask your Lordships' House to recognise that there are many victims and survivors who want the Church earnestly and finally to meet its commitment to provide redress. I know that there are survivors watching now who look forward very much, according to your Lordships' pleasure, to this Measure receiving Royal Assent. As noble Lords will be aware, the Ecclesiastical Committee has considered both these Measures and found them to be expedient. I am very grateful to the committee for its careful consideration. I beg to move.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the noble Baroness, Lady Harris of Richmond, is taking part remotely, and I invite her to speak.

Baroness Harris of Richmond (LD) [V]: My Lords, I thank the right reverend Prelate the Bishop of Winchester for bringing these two Measures to your Lordships' House. I will address the Abuse Redress Measure first.

This is yet another Measure that we have recently discussed in the Ecclesiastical Committee—one of a number of crucial pieces of legislation which the Church is putting in place to address the unacceptable and disgraceful past experiences of survivors of abuse perpetrated by Church personnel, both priests and lay members. Under the exceptional guidance of our chair, the noble and learned Baroness, Lady Butler-Sloss, we are slowly making our way towards some resolution of painful incidents, some of which happened many years ago.

The Abuse Redress Measure seeks to bring in a redress scheme, as we have heard from the right reverend Prelate, which enables the Archbishops' Council to delegate decision-making on cases to a third party. This scheme, long in the production, has the approval of almost all parts which make up the General Synod. However, when we looked closely at the scheme, members asked many searching questions of the Church representatives, not least around transparency and the need to have independent observance of the scheme to ensure equity and speed of redress.

The Church of England's dire handling of abuse issues has prompted urgent calls for it to quickly put into place a scheme which recognised its failings and offered compensation to the victims affected by the appalling behaviour of some clergy. Their pain and suffering needed to be addressed urgently. As we have heard, the scheme is not intended to mirror a court of law, but responds whenever there is a failure within the Church if it has been the cause of abuse. Applicants will be offered independent legal and financial advice in order to bring their case forward, and a review

process whereby the General Synod will hold the Archbishops' Council accountable for the operation of the scheme is proposed. Many victims and survivors have waited years for such legislation and, although it is not perfect, it begins to address some of their concerns. As we have heard, we deemed it expedient.

The second Measure before us, and I will be brief, is the Armed Forces Chaplains (Licensing) Measure, which simply seeks to address a rather odd problem which has been occurring for years, and which this Measure had to be brought forward to correct. Chaplains play a very important role in the armed services. This tidying-up and simplifying legislation avoids the need for a chaplain to get the permission of another bishop, in whose diocese he might be present, to officiate in his or her role as army chaplain. The Measure provides a statutory basis for the current custom and practice, whereby the Archbishop of Canterbury licenses chaplains to His Majesty's forces, giving them ecclesiastical authority to exercise the Church's ministry in that role, without them having to also seek permission from the diocesan bishop to exercise their ministry as an Armed Forces chaplain in the area in which they find themselves. This is a wholly sensible and necessary Measure to which all members of the General Synod agreed. We certainly deemed it expedient when we addressed it in committee, and I commend it to the House.

Baroness Butler-Sloss (CB): My Lords, I am grateful to the noble Baroness, Lady Harris, because she said almost everything that I was going to say, which is always a great help. I am the chair of the Ecclesiastical Committee, which is a Joint Committee of both Houses, with 30 members. We found it extremely easy. We were created under the assembly Act 1919 and it is our job, as noted by the noble Baroness, Lady Harris, to find a Measure from General Synod either expedient or not expedient—that is our sole duty. The chaplains Measure was extremely easy. It is a very sensible clearing up of an anomaly which had gone on for many years. The committee spent very little time on it.

We spent a great deal of time over the redress Measure. We had extremely helpful information from the Church and a considerable group led by the right reverend Prelate. We found the information provided to us useful. As the noble Baroness, Lady Harris, said, we asked a lot of very searching questions. We received a lot of information from two or three people who disapproved of the Measure, but rather more information from those who approved of it. We had a number of victim survivors attend our open meeting, and a considerable number more, I understand, listening online.

We had no trouble at all, having heard the extremely helpful information from the Church, in eventually finding that this was a very good, sensible step forward. As the noble Baroness, Lady Harris, says, of course it is not perfect—nothing that goes through Parliament or through the General Synod is perfect—but it is an extremely good start and we were delighted to support it. I commend both Measures to the House.

8 pm

The Earl of Effingham (Con): My Lords, we welcome this Measure to further enable the important work of Anglican chaplains to His Majesty's Armed Forces. Chaplains provide unique pastoral care and the 195 Anglican Armed Forces chaplains are there for the benefit of service men and women of all faiths and none. His Majesty's loyal Opposition are extremely grateful for their service and recognise the need for forces chaplains to be able to move with and minister to military personnel with greater ease.

This Measure, moved by the right reverend Prelate the Bishop of Winchester, proposes that Anglican chaplains are no longer required to obtain a licence or permission to officiate from the bishop of each diocese within which they are called to serve. Instead, it allows chaplains to exercise their ministry outside of the parish context under the licence provided by the most reverend Primate the Archbishop of Canterbury. We fully support reducing the administrative burden for dioceses and the Ministry of Defence, which will better enable front-line ministry. I extend our thanks for the thorough work that has gone into this sensible Measure. The moral, pastoral and spiritual leadership shown by chaplains to His Majesty's Armed Forces can form a bedrock of stability when it is most needed.

We welcome the Abuse Redress Measure to bring forward the Church of England's national redress scheme for victims and survivors of Church-related abuse. We understand that this Measure has the overwhelming support of the General Synod. His Majesty's loyal Opposition recognise the extensive work, deliberation and careful reflection that have been undertaken to finalise this Measure. However, it is of crucial importance that we never forget and pay tribute to all victims and survivors of abuse, particularly those who supported the development of this Measure throughout the lengthy and at times, no doubt, incredibly painful process to reach this stage.

As so well put by the right reverend Prelate the Bishop of Winchester, this Measure will provide victims and survivors with a consistent single point of access to apply for different forms of redress, ranging from acknowledgement and apology to therapeutic and financial support, guided by the crucial principle that every applicant and every person entitled to apply should be treated with dignity, respect and compassion. It is reassuring that financial support as a form of redress will be provided up front by the Archbishops' Council to successful applicants and that, being cognisant of the sensitivities involved, requests for voluntary financial contributions from a Church body will be made by an accountable third party rather than in-house from one Church body to another.

In addition, the process outlined for reviewing the Measure after the end of the third year of the five-year period appears both sensible and workable. This will ensure that sufficient data is available to properly assess its implementation and operations before a report is produced by the Archbishops' Council to inform the General Synod's decision over the Measure's extension by a further five years. We consider this a reasonable timeline and hope that other bodies and organisations can learn lessons from the scheme as a model of best practice.

It will be a great relief to many that this Measure is coming before your Lordships' House to ensure that victims and survivors of abuse can begin to apply for and receive redress in this way. We are in debt to all

[The Earl of Effingham]
those individuals who have supported the development of this Measure thus far and will no doubt continue to contribute to its successful implementation.

The Lord Bishop of Winchester: My Lords, I am grateful for the various points raised—I was going to say questions too, but I am not sure there were any. I am grateful to the noble Baroness, Lady Harris, for her helpful summary and to her and the noble and learned Baroness, Lady Butler-Sloss, for their support for both Measures. I entirely take the point that redress cannot come soon enough for many survivors, but I want to assure the House that I genuinely believe we have taken great care in developing this scheme. The board, which I had the privilege of chairing for a number of years, took more than 160 separate decisions in the scheme's design and development.

I echo entirely the positive affirmation from the noble Earl, Lord Effingham, of the work of Armed Forces chaplains and thank him for his support for both Measures. I echo entirely his thanks to the remarkable victims and survivors who have given themselves selflessly and generously to the development of this scheme. From the word go, survivors have been integral to the design and development of the scheme. I am also grateful to him for highlighting the wisdom of the review of the scheme.

With my thanks to the House for those very helpful contributions, I commend the Measure to the House.

Motion agreed.

Abuse Redress Measure

Motion to Direct

8.07 pm

Moved by ***The Lord Bishop of Winchester***

That this House do direct that, in accordance with the Church of England Assembly (Powers) Act 1919, the Abuse Redress Measure be presented to His Majesty for the Royal Assent.

Motion agreed.

8.07 pm

Sitting suspended.

Crime and Policing Bill

Committee (5th Day) (Continued)

8.24 pm

Amendment 308

Moved by ***Lord Hanson of Flint***

308: After Clause 86, insert the following new Clause—

"Disregarding convictions and cautions for loitering or soliciting when under 18

(1) Part 5 of the Protection of Freedoms Act 2012 is amended as follows.

(2) In the heading of Chapter 4, omit "for buggery etc."

(3) For the italic heading before section 92, substitute "Sexual activity between persons of the same sex".

(4) After section 94 insert—

"Loitering or soliciting: under 18s

94A Automatic disregard of convictions or cautions for loitering or soliciting when under 18

(1) A conviction or caution is a disregarded conviction or caution if—

(a) it was for an offence under section 1 of the Street Offences Act 1959 (loitering or soliciting for the purpose of prostitution), and

(b) the offender was aged under 18 at the time of the offence.

(2) Sections 95 to 98 explain the effect of a conviction or caution being a disregarded conviction or caution.".

(5) In section 95 (effect of disregard on police and other records)—

(a) before subsection (1) insert—

"(A1) Subsections (1) to (4) apply in respect of a conviction or caution disregarded under section 92.";

(b) after subsection (4) insert—

"(4A) A relevant data controller must delete from relevant official records, as soon as reasonably practicable, any details of which they are aware of a conviction or caution disregarded under section 94A."

(6) In section 99 (appeal against refusal to disregard convictions or cautions)—

(a) in the heading, at the end insert "for sexual activity between persons of the same sex";

(b) in paragraph (a), after "application" insert "made under section 92".

(7) In section 100 (advisers)—

(a) in the heading, at the end insert "on applications under section 92";

(b) in subsection (1), after "case" insert "under section 92".

(8) In section 101 (interpretation)—

(a) in the definition of "disregarded caution", after "which" insert "is or";

(b) in the definition of "disregarded conviction", after "which" insert "is or"."

Member's explanatory statement

This amendment provides for a conviction or caution for loitering or soliciting for the purpose of prostitution, where the offender was under 18 at the time of the offence, to be disregarded.

The Minister of State, Home Office (Lord Hanson of Flint) (Lab): My Lords, Amendments 308 and 309 are closely bound with Amendment 313 tabled by my noble friend Lady Goudie. If the Committee will allow me, I will ask my noble friend Lady Ritchie to speak to her amendments and on behalf of our noble friend Lady Goudie, who is unable to be here tonight. That being the case, I will then respond to both the Opposition Front Bench and any comments made by my noble friends, given that the lead amendment is mine but is very much tied up with a range of amendments. In that case, I will sit down and allow the proceedings to continue. I beg to move.

Baroness Ritchie of Downpatrick (Lab): My Lords, I will address the amendments in my own name, Amendments 316A and 316B, relating to prostitution, and Amendments 310 to 313 in the name of my noble friend Lady Goudie. I also support the amendments in the name of my noble friend the Minister.

Like my noble friend Lady Goudie, I wish to address the exploitation of women and girls. As she has outlined in the amendments, which have also been signed by

the noble Lord, Lord Morrow, women and girls are trafficked, exploited and routinely abused in prostitution for the profit of others. I fully support all her amendments, which would finally bring laws in England and Wales into alignment with those in Northern Ireland following the work of the noble Lord, Lord Morrow, when he was a Member of the Northern Ireland Assembly. The other amendments in this group in the name of my noble friend Lady Goudie are clearly needed, as they shift the burden of criminality from vulnerable women on to the men who buy sex, the traffickers, the pimps and the platforms that facilitate and profit from prostitution. Quite simply, my noble friend Lady Goudie has my full support.

I move on to address Amendments 316A and 316B in my name. Commercial sexual exploitation is a continuum. Women move from one form of prostitution to another. For example, a women may be involved in pornography production but moves to selling sex in person or vice versa. Women often go from in-person stripping to online camming sites. I hasten to add that I do not have any particular knowledge of this issue, but I am aware of it. I thought I would add that piece of information. While the location or act may change, what rarely changes is the exploitation of the women involved.

I will focus on just one aspect of this: online sexual exploitation via camming sites. These are websites where someone is requested to perform sexual activities in front of a webcam for paying subscribers. These content creators, as they are known—although I am reluctant to use the phrase, as it diminishes the exploitation—are usually women, and the subscribers are usually men; in other words, women sell sex, and men buy it. These sites come with their own specific dangers and types of exploitation.

8.30 pm

Women involved in camming face harassment, blackmail and image-based sexual abuse, as well as the psychological and emotional labour of chatting—another word that hides the true horror of what these women face—to men for hours and days on end with no break. They speak about how young girls are targeted by camming sites, which recruit them via their social media accounts on platforms such as Instagram, Snapchat and Facebook, preying on their youth and vulnerabilities.

The best-known camming site is OnlyFans, which is a UK-based online streaming platform and app created in 2016, where users can pay for private content with a monthly subscription. In 2024, the company generated $7.2 billion in revenue. Despite being a British-based company, the owner is a Ukrainian-American who pays himself $1.3 million a day. Like all platforms designed to profit from the selling of sexual material, it facilitates and profits from sexual exploitation and abuse. OnlyFans is nothing more than an online pimp, facilitating and profiting from prostitution.

As with other forms of prostitution, one of the main reasons women cite for joining camming sites such as OnlyFans is economic distress. That is why OnlyFans grew exponentially during the Covid-19 pandemic. Women who, unfortunately and sadly, had lost their jobs or were struggling financially, turned to OnlyFans to make money. The platform now has 4.6 million content creators worldwide, and while some of these may be uploading content about sport or music, the majority are women, and some men, selling sexualised content for a fee.

All this content is behind a paywall, so you cannot access it unless you pay. Content creators charge their fans—a euphemism for sex buyers—to watch videos. They can add extra fees for bespoke content, merchandise and personalised chats. OnlyFans makes its money by taking a 20% cut of creators' earnings. It also offers a referral programme whereby content creators who bring other creators to the platform get a 5% cut of the referred creators' earnings for 12 months.

Without question, OnlyFans and other camming sites facilitate and profit from commercial sex, yet OnlyFans in particular has positioned itself as a safe platform for uploading sexualised content—a platform that is empowering and lucrative for women. I remind noble Lords that the owner of OnlyFans pays himself $1.3 million a day, yet we have women in this country who are selling sexual images and videos that violate their own boundaries and which they consider degrading for just £50.

My Amendment 316A would make it an offence for a person to own, operate, manage or otherwise facilitate

"an online platform that enables the purchase, distribution, or access to personalised sexual content … for or in the expectation of gain for themselves or a third party".

My Amendment 316B would make an offence for a person to

"intentionally cause or incite another person … to provide online personalised sexual content … for or in the expectation of gain for themselves or a third party".

As we have heard, prostitution is organised. It is run by pimps and traffickers. This is no different on camming sites. An investigation by the Social Research Lab at the University of Northern Colorado found that OnlyFans provides new avenues for sex trafficking to occur. One trafficker generated more than $270,000 in the US alone over 30 months. Because much of this content is behind a paywall on OnlyFans, it is easier for traffickers to hide, while making it harder for law enforcement to track any potential trafficking on the site.

We cannot in conscience allow this to continue. Camming sites such as OnlyFans are profiting from trafficking, exploitation and violence against women and girls. Women are not commodities to be bought and sold. They are living, breathing human beings. As well as my Amendments 316A and 316B, I support those in the name of my noble friend Lady Goudie.

Baroness Featherstone (LD): My Lords, I speak against Amendment 310 on the prohibition of pimping. According to the Member's explanatory statement, it would

"make it a criminal offence to enable or profit from the prostitution of another person, including by operating a website hosting adverts for prostitution".

Specifically, the amendment would create the offence of assisting or facilitating another person to engage in sexual activity with another person in exchange for payment or other benefit, where the assister or facilitator knows or ought to know that payment for sexual

[Baroness Featherstone]
activity is taking place, whether or not the person assisting or facilitating gains in any way. It would also criminalise the publishing or display of any digital advertisement for sexual activity.

The amendment conflates consensual sex work with sexual exploitation and trafficking. Adopting it would cause significant harm to sex workers. In seeking to criminalise those who facilitate the exploitation of victims of forced prostitution, which is already a crime, it would instead make sex workers' lives more difficult and dangerous by removing their ability to advertise their services online and seek assistance or support from others in carrying out their services.

I will take those two separate elements in turn. First, on criminalising those who assist or facilitate another person engaging in sexual activity for payment where the assister or facilitator knows or ought to know that such activity is taking place, the impact of this would be disastrous for sex workers and the organisations that support them. It would mean that anybody acting to help sex workers work safely, including safety service operators such as National Ugly Mugs, would be guilty of an offence. I am sure that the intention of Amendment 310 was not to catch that, but it does.

I launched National Ugly Mugs when I was a Home Office Minister to reduce the violence that sex workers experience. The principle behind the scheme was not controversial. When a sex worker experiences violence or a threat, they can report it anonymously online. Other sex workers are therefore warned about a dodgy punter. That information, often the only line of defence, has saved lives, prevented repeated attacks and encouraged people who would never otherwise go to the police to start trusting them again. The ability to post online about a dangerous client is invaluable but would be caught by Amendment 310.

Since I launched it in 2012, National Ugly Mugs has disseminated more than 1.17 million alerts to sex workers warning of risks. Whatever one's view of prostitution, no one should be assaulted, raped or murdered for the work they do. National Ugly Mugs was never about endorsing prostitution. It was about reducing harm and preventing homicide. The evidence is clear that where harm reduction schemes exist, sex workers are better able to report violence, share intelligence and access justice. Where they are removed, people go underground and the violence gets worse, not better.

The argument often put forward is that the Nordic or buyer criminalisation model would make the scheme unnecessary. But if you look honestly at the evidence from Sweden, Norway and France, you will see that violence did not disappear. It went into the shadows and underground. Sex workers in those countries report being more isolated, less able to screen clients and more fearful of the police. We should not repeat those mistakes here. It is a dangerous illusion to think that by abolishing the tools that keep people safe, we abolish the reality of prostitution. We do not. We simply make it more dangerous.

Amendment 310 would also criminalise family members and the extended support networks that many sex workers rely on in order to carry out their sex work, and it would criminalise the many sex workers who support other sex workers in carrying out their services. It would criminalise any business—such as banks, mobile phone providers, taxi services or web hosting providers—that knew or ought to know that it was providing services to sex workers and was thereby assisting them in carrying out their activities.

Sex workers are already among the most discriminated-against groups in the UK, suffering appalling stigma. To take just one of the examples set out above, the Financial Conduct Authority recently warned financial institutions not to close the bank accounts of those they suspect or know are carrying out sex work because of the significant harm caused by doing so. Providing a sex worker with a bank account enables them to receive payment for sexual services, and this would clearly be caught by the Bill because it is facilitating or assisting the sex worker in carrying out their work.

The amendment would compel banks to close sex workers' accounts and would perpetuate such harm. The net result of the amendment would be to shut sex workers out of the economy and prevent them accessing the services and support they need to work safely, pushing them into more dangerous and more difficult working environments. The displacement of sex workers away from the support services they rely on would make it more difficult for sex workers to survive and make it more challenging for those who care about and serve those communities to locate and to help them.

My second issue is the move to criminalise the publishing or display of any advertisement for sexual activity. This section of the amendment seeks to criminalise the operations of the adult service websites, ASWs, and make it impossible for sex workers to advertise online. In the modern world, most sex workers do use adult service websites to advertise their services, and working in that way means that sex workers remain in control of the services they offer and the environment in which they work, and can take steps to screen the clients they are planning to meet in advance of doing so. For example, they can take ID information and/or prepayment, and use online checking tools such as the National Ugly Mugs scheme, which I launched, to see whether the phone number or email address contacting them has previously been linked to violent or abusive behaviour.

Supporters of the amendment will argue that because traffickers also attempt to use these platforms to advertise those they are criminally exploiting, they should be outlawed. However, outlawing the means for sex workers to advertise would not remove the sex workers themselves. They would instead be forced to adopt new approaches to sourcing clients, and that would have four main effects.

First, as evidenced by outcomes in other countries, online advertising for sex work would still exist but in a different form. Rather than sex workers advertising themselves openly as providing sexual services, they would instead advertise non-sexual companionship or massage services in such a way as to give the website proprietor grounds to demonstrate that they do not know that sexual activities are being advertised. This would make it harder to identify and provide outreach

and support to those who are, in reality, carrying out sex work, and harder for law enforcement to screen adverts and assess risk.

Secondly, it would mean that advertising would be pushed to less visible areas of the internet, such as private messaging groups, social media and the dark web, where it would be out of sight of law enforcement and those seeking to provide support services to sex workers. UK national policing agencies have made clear that for this reason they do not support the outlawing of adult sex websites.

Thirdly, some ASWs would instead move offshore and carry on business out of reach of UK policing. They would also stop providing evidential materials to UK law enforcement, making it harder for police to investigate and prosecute genuine cases.

Fourthly, it would increase the levels of danger facing sex workers by forcing them off the internet and on to the streets. On-street work is universally acknowledged as being far more dangerous than online. In this scenario, sex buyers would hold all the power in negotiations and those who seek to harm sex workers would have greater opportunities to do so.

8.45 pm

When forced offline, sex workers lose the ability to clearly communicate their services and boundaries in advance, before engaging in in-person sexual exchange for money. While there have been well-documented instances in the past of traffickers and exploiters seeking to use ASWs for sexual exploitation, the recently enacted Online Safety Act includes new legal duties for ASWs to prevent such content appearing on their services. That legislation has come into effect only recently, so we should give it time to bed in and have an impact.

While we all might very well wish that prostitution did not exist, it does. We need to provide the best protections we can, at the same time as perhaps supporting more useful programmes that help women to leave prostitution altogether.

Earl Attlee (Con): My Lords, I am grateful to noble Lords for the explanations of their amendments. I support the Government's Amendments 308 and 309 for reasons that will be explained by the Minister. I go further and support the Amendments 312 and 313, in the name of the noble Baroness, Lady Goudie. It must be so difficult for social workers and charities to steer sex workers away to a better life if they have to admit to these offences when seeking legitimate or conventional employment, when they have not even been found to be dishonest. I support the noble Baroness, Lady Ritchie, in her Amendment 316B for the reasons that she explained. This is yet another online problem.

I am afraid that I cannot support Amendments 310 and 311, which seek to make buying or organising the provision of sexual services illegal. I come at this from a similar position to that of the noble Baroness, Lady Featherstone.

In the recent past, and for centuries before, we erroneously thought that we needed to stamp out gay sex because we did not like it. Thanks to the effort of great campaigners, people like me now recognise that the policy was absolutely bonkers. We made otherwise law-abiding citizens out to be criminals, we turned patriots into security risks, and we made sure that around 5% of the population could never reach their full potential—and we hurt them. We made sure that gay people could not have stable relationships, which then caused a variety of health issues for both the gay and the straight communities. We do much the same with prostitution.

We have an especially nasty name for sex workers—we call them prostitutes or worse. However, quite a lot of people, mainly men, are happy to use them for a variety of reasons—some understandable and some not so good. We do everything that we can to make it a dirty, horrible, seedy, disgusting business, in the vain hope that doing so will reduce the problem. It does anything but.

We ensure that only criminals can engage in managing the paid-for sex business, just like the drug trade. Worse still, and just like homophobia, we create a health problem with sexually transmitted diseases, when we could minimise the problem if we so desired. The noble Baroness explained the logic behind her amendments. If the policy were successful, there is no doubt that it would be a great moral success. However, to be successful, the police would have to devote huge resources to absolutely stamp out prostitution in the UK, and I am not confident that they can.

I see considerable problems with these amendments. The first is around the safety of sex workers, and the noble Baroness touched on this. I would imagine that, very often, appointments are made via an ordinary mobile phone. If something goes horribly wrong with the encounter, no doubt the police can access the mobile phone records and use relevant detection techniques. Sex workers can currently identify regular, and therefore safe, clients. If these amendments became law, clients would not use their main mobile; they would surely use burner phones, regularly change them and turn them on only at railway stations and the like. Of course, this activity would no longer be a red flag; it would be quite understandable. If the booking is online, clients would use a website that might be far away from the UK, in authorities such as Russia or the Far East. The noble Baroness, Lady Featherstone, talked with great knowledge about this issue. It would lead to significant cyber and espionage risks compared with sex workers using certain well-known UK sites.

One would hope that someone who acquires a sexually transmitted disease would be honest with the health professionals seeking to identify the source of the infection, particularly if it were hard to treat. If the amendment is accepted, very few clients would agree to reveal that they have paid for sex, where and with whom.

I can understand why the noble Baroness has sought extraterritorial jurisdiction. If she did not, we would be exporting our problems—if they are problems—to another country, which might be as close as Germany, for instance, which has for many years done what I am about to propose. If the police are given concrete evidence that this offence has been committed somewhere on the continent, are they going to go in hot pursuit? I am not sure that the police in Berlin, for instance, would be very helpful, given that it is not an offence there.

[Earl Attlee]

When certain state employees are security vetted, it is necessary to understand the applicant's sexuality because it could obviously be a major vulnerability, but there is never a problem if the applicant is honest and candid, and the vetting team is not easily shocked. However, it would be a problem if the applicant admits to serious criminal offences. If they successfully lie to the vetting team, they make themselves a security risk.

Unlike the online problems that we have been discussing, we are talking about the world's oldest profession. If we think that we have stamped it out, we may only have driven it deep underground, as explained by the noble Baroness, Lady Featherstone. Those seeking paid sex would have to use dangerous IT solutions, which would leave them, and possibly their employers, much more vulnerable to cyber attacks and blackmail. The sex workers involved would be involved in a very serious criminal undertaking—not just, as at the moment, perhaps three girls setting up a flat together.

What is to be done to address the ills that the noble Baroness has so skilfully articulated? I do not disagree with her analysis of the problem and the evils. Hitherto in the UK, we have taken a priggish and prudish attitude to these matters and made things far worse, just as we did with gay people. The answer is that we should regulate, license and tax this activity, just as we do with alcohol. We should license establishments, whether large or small—the larger establishments could be discreetly located so that they do not interfere with the local community. We should ensure that sex workers never again have to give the majority of their earnings to an immoral criminal who will abuse them if they do not. The economics of the profession would be favourable for sex workers if there were no immoral parasites involved. We should ensure that criminals are not able to be involved in the business at all. We should license sex workers to ensure that they have not been trafficked and are not being coerced into the business. This policy would make it far more difficult to force people into the business and would drastically reduce the risks for sex workers.

If we went down this route, there would be significant benefits apart from the tax take, which would be significant. We could require regular health checks and make sure that any drug dependencies were properly managed. We could make this a condition of the personal licence. It is reasonable to argue that sex workers would not have to entertain so many clients in a day, and in any case, as I have suggested, it would be a far less sordid activity for all. If the Minister is cautious in his response to these amendments, I will gladly support him.

Lord Cameron of Lochiel (Con): I am grateful to all noble Lords who have spoken in what has been a thoughtful and at points sobering debate on this group of amendments. Each amendment has been brought forward with a genuine desire to protect some of the most vulnerable people in our society, a shared goal among all of us.

On Amendments 308 and 309 in the name of the Minister, I of course understand and respect the intention that lies behind them, which is to ensure that individuals who were exploited as children, often in circumstances of profound vulnerability, are not burdened in adulthood by convictions or cautions that arose from their victimisation. We share the Minister's desire to protect children from such exploitation and absolutely recognise that those under 18 involved in prostitution can very often be victims.

The amendments as drafted would create an automatic disregard or pardon for every offence of loitering or soliciting committed under the age of 18. Will the Minister explain whether a blanket approach of this kind is the right mechanism? Young people under 18 can be convicted of a wide range of offences, many of which the law rightly considers on a case-by-case basis with great care and nuance. It is not immediately clear why this category of offence should be given automatic treatment when others are subject to a case-by-case consideration. I totally accept that that is a difficult question. While we are very sympathetic to the concerns that underpin the amendments, we hope to hear from the Minister a more detailed rationale for them.

Amendments 310 and 311, tabled by the noble Baroness, Lady Goudie, and spoken to by the noble Baroness, Lady Ritchie, raise significant issues about the role of those who enable, promote or profit from prostitution, including through online platforms, and about the criminal liability of those who pay for sexual services. Again, we absolutely support the underlying principle that exploitation, whether offline or online, must be robustly tackled and that those who profit from the abuse or commodification of vulnerable people should face meaningful consequences. The growth of online facilitation has created new and disturbing avenues for exploitation, and we support efforts to ensure that our legislative framework keeps pace with these developments.

However, the approach that the noble Baroness, Lady Goudie, has suggested through these amendments, which is effectively to repeal the current offences in the Street Offences Act and replace them with the new offences in her amendments, is a very wide-ranging change to the law. Such a sweeping and significant alteration to our legal framework should not be undertaken, in our view, without a serious consideration of the impact and should be the subject of a serious examination, consultation with the police and other groups and the publication of proposals by the Home Office. It is not a change that we can simply make on a whim.

Finally, Amendments 316A and 316B, tabled by the noble Baroness, Lady Ritchie of Downpatrick, concern the rapidly evolving landscape of online sexual exploitation. We share the noble Baroness's concern about the ways in which digital platforms can facilitate harmful or coercive practices and about the need to ensure that those who profit from the exploitation of vulnerable individuals are held to account. We recognise the seriousness of the issues that she has raised this evening and the need for continued work to ensure that offenders cannot simply exploit technological advances to evade scrutiny or sanction. I hope the Government will consider these amendments very carefully.

There is clear recognition of the need to strengthen protections for vulnerable people and to ensure that those who exploit them, whether in person or online, are met with the full force of the law. I look forward to continuing discussions with the Government as the Bill progresses and to hearing from the Minister tonight

so that we can ensure that the legislation is robust and proportionate and delivers the protections that victims so clearly deserve.

9 pm

Earl Attlee (Con): My Lords, the problem of prostitution has been around since biblical times. I can understand why the noble Lord might not be very supportive of Amendments 310 and 311, but does my noble friend on the Front Bench not offer any solution to the problem of prostitution?

Lord Cameron of Lochiel (Con): I thank the noble Earl for that question. I have made the position of the Front Bench clear and think it is now for the Minister to answer such a testing question.

Lord Hanson of Flint (Lab): I am grateful to my noble friend Lady Ritchie of Downpatrick for commencing this discussion and debate. A number of views have been expressed in Committee today and some go wider than the amendments that are before us. The noble Earl, Lord Attlee, raised a number of issues which go beyond what is before us. My noble friend Lady Ritchie also touched on the amendments in the name of my noble friend Lady Goudie. It is clear that there are differing views in the Committee—from the noble Baroness, Lady Featherstone, the noble Earl, Lord Attlee, and indeed the noble Lord, Lord Cameron of Lochiel, on the Front Bench opposite—which tells me that this is a truly complex area where there are very different legislative options open and where the Government need to consider very carefully what needs to be done.

The Government are absolutely committed to tackling the harms associated with prostitution and sexual exploitation, including where it takes place online. This is an important part of our work on tackling violence against women and girls which, as colleagues in the Committee will know, is a top government priority, and about which we will be saying more shortly. But we need to look at the evidence. We have limited evidence as to what will most effectively reduce demand for prostitution and disrupt exploitation without—and this is the key point that came out of some of the contributions—unintentionally causing harm to victims and survivors and making life more difficult for those who choose that lifestyle. I say to my noble friend that the Government are not in a position to accept the amendments today, but I want to make it absolutely clear that we are in the business of taking steps to tackle sexual exploitation and to gather evidence to inform further interventions in the future.

Amendment 310 in the name of my noble friend Lady Goudie would make it an offence to assist, facilitate, or control the prostitution of another person, regardless of whether the individual secures any personal gain from this facilitation. The broad wording of this offence could—and again this echoes what the noble Baroness, Lady Featherstone, said—have an adverse consequence for people who choose to be engaged in prostitution, for example, by criminalising professionals such as healthcare support workers, charities which provide sexually transmitted infections testing or those providing contraception or safety planning. The noble Baroness, Lady Featherstone, made a compelling case around some of the issues that the Government have reflected on in relation to that amendment. My noble friend Lady Goudie's amendment would also make it a criminal offence to operate a website hosting adverts for prostitution, and I will come back to that again in a moment, if I may.

My noble friend Lady Ritchie, in Amendments 316A and 316B, would introduce new criminal offences to tackle the sale of personalised sexual content online, including audiovisual and visual content. Amendment 316A would make it an offence to own, manage or facilitate one of these online platforms, while Amendment 316B would create an offence of causing or inciting an individual to sell personalised sexual content on these platforms. It would also introduce a duty on the online platform to remove personalised sexual content within 24 hours if an individual is convicted of the offence and if an individual who is incited to sell the content has requested its removal.

The Government recognise very strongly that we need to take action to tackle these websites. The so-called pimping websites need to be addressed and tackled. However, I would argue that criminalising those websites may have safety implications for people who sell sex and may result in displacement to on-street prostitution, which is more dangerous for individuals. It may also disrupt policing operations. The police can scan adult service websites for signs of vulnerability and exploitation and to gain data to support criminal investigations.

I accept that members of the Committee might want government Ministers to say that, but Changing Lives, an organisation supporting people who have been sexually exploited, also advocates against criminalising adult service websites. Instead, it is calling for stronger regulation, more referral mechanisms and more funding to support people affected by exploitation.

Amendment 311 in the name of my noble friend Lady Goudie would make it an offence for an individual to pay for or attempt to pay for sex either for themselves or on behalf of others. The Government have looked in detail at this approach in other countries which have taken it and have seen indications that the law can be misused to harass and victimise people engaged in prostitution. Again, that is a matter for debate and discussion, but that is the view the Government currently take.

Amendment 312, in the name of my noble friend Lady Goudie, would repeal the offence in Section 1 of the Street Offences Act 1959 which criminalises a person aged 18 or over who persistently loiters or solicits

"in a street or public place for the purpose of prostitution".

Amendment 313 would disregard prior convictions and cautions. There may be some common ground here, because I absolutely recognise the concern that this offence may criminalise vulnerable individuals and restrict their opportunities for employment. However, I am also mindful that on-street prostitution can have an impact on local communities, and it is important that we consider their views.

[Lord Hanson of Flint]

My noble friend Lady Goudie, were she able to be here, would say that the criminal law rightly evolved in 2015 to make it clear that children cannot be prostitutes and that any child who is paid in exchange for sex is clearly a victim of child sexual exploitation. Therefore, I would argue that it is long overdue that individuals issued cautions or convictions for the offence in Section 1 of the Street Offences Act before 2015 have their criminal records expunged.

The noble Lord, Lord Cameron, asked for details. I simply repeat: children cannot be prostitutes. Children who are paid in exchange for sex are clearly victims of sexual exploitation. The records currently in place provide significant barriers to the employment and psychological rehabilitation of those who are now adults. It is important that we look at the long-term consequences of those incidences and help support them in rebuilding their lives. That is why we have tabled government Amendment 308, which will disregard convictions and cautions for Section 1 offences issued to under 18s. Amendment 309 will provide pardons for such convictions and cautions.

In each case, what we have tried to do—I hope the noble Lord, Lord Cameron, will reflect on this—is to ensure that the disregard and pardon are automatic. We do not want to retraumatise victims and survivors of childhood abuse by requiring them to go through an application process. I asked today in our internal Home Office discussions how many individuals this could impact. We have looked at the figures for the last 30 years and assess that 350 to 352 individuals would fall under the auspices of that. Someone aged under 18 30 years ago is now approaching their 50s. I say to the noble Lord, Lord Cameron, that for that person an offence committed as a child would still be on their record. Something they maybe did not have responsibility for at the time would therefore impact upon their employment and life chances. Therefore, I would welcome his support for that repeal.

Lord Pannick (CB): I entirely support what the Minister is putting forward. Is it the intention of the Home Office to track down these 350 or so individuals and notify them of the consequences of this legislation when it is enacted?

Lord Hanson of Flint (Lab): We will reflect on that, but, as I said, the disregard and pardon will be automatic, so it will happen if the Bill receives the support of both Houses and Royal Assent. I will reflect on what the noble Lord said, because there may be an opportunity to consider that. However, I do not want to commit to it today, because we do not necessarily know where someone who was that age in 1995 is now—the address, contact details and so on might all be different. The key point is that this is an automatic disregard for those individuals, so if publicity is given to this new clause and the Bill receives Royal Assent, it will potentially lift a burden for those who were under 18 at the time.

The Government cannot share in the support for repeal of the Section 1 offence for those over 18, and I can give reasons for that. We will consider in future, if the Section 1 offence is repealed in its entirety, whether the disregard and pardon should be extended to adults, because that is a separate issue. However, today I wanted to focus on those under 18.

Earl Attlee (Con): Will the Minister consider separating the disregard and the pardon?

Lord Hanson of Flint (Lab): I am trying to think how that would impact upon the issue we are talking about today. In effect, the disregard and pardon will be automatic for people under the age of 18. I will look at what the noble Earl said and discuss it with Home Office colleagues in that context.

As I have rejected the amendments in the name of my noble friend, I reassure her that there is a range of ongoing work to tackle sexual exploitation, and our intention is to continue working with the police, charities and those affected to ensure that we take action. It is important that we draw attention—as the noble Baroness, Lady Featherstone, did—to online platforms' legal duties under the Online Safety Act 2023, which came into play on 17 March. That Act sets out priority offences that platforms must take additional steps to tackle. In addition, I hope it will help my noble friend Lady Ritchie to know that the Sexual Offences Act 2003 makes it an offence to cause, incite or control prostitution for gain. Those offences, together with human trafficking offences, are priority offences under the 2023 Act.

As I think the noble Baroness, Lady Featherstone, indicated, platforms should now already be completing risk assessments and implementing measures to mitigate against the risk of their services being used for illegal activity and having illegal content present. Ofcom is providing recommended measures for compliance through the illegal content codes, and platforms must be able to demonstrate the measures they have taken to comply with their duties. Very significant fines of 10% of global revenue are in place, or, in extreme cases, business disruption measures.

To show that we are not ignoring the issues my noble friend has raised, I also point out that we have introduced provisions in Schedule 13 that will enable law enforcement agencies to apply to the courts to temporarily suspend for up to 12 months IP and domain names used for serious crimes such as sexual exploitation. We are also working closely with the police and other law enforcement partners to ensure that the laws we already have are effectively enforced.

Through our law enforcement partners, we are running a pilot whereby adverts are referred to the Home Office-funded Tackling Organised Exploitation Programme to consider if offences have been committed on adult service websites. In addition, as my noble friend has mentioned, our law enforcement partners are working closely with Ofcom on the issue of adult service websites to ensure that the right measures are put in place to identify and remove illegal content and safeguard people from sexual exploitation.

It may help my noble friend to know that we are providing £450,000 to the National Police Chiefs' Council this year to pilot a national law enforcement intelligence and investigation hub for sexual exploitation, collating information on victims and perpetrators. We are also providing £475,000 to Changing Lives to provide support to those affected by sexual exploitation.

I hope the Committee can reflect on this difficult and challenging topic. I commend Amendments 308 and 309 to the Committee. I am grateful to noble Lords who have contributed—

9.15 pm

Baroness Butler-Sloss (CB): Picking up what the noble Earl, Lord Attlee, said about licensing sex workers, I wonder whether the Minister knows what goes on in Holland, where each individual woman is licensed as an individual business. I walked through the red-light district of a small town and saw women in all the windows, and I was told by a local Dutch councillor that all of them had pimps. They were either on the phone to their pimp or the curtains were pulled. So I suggest that licensing does not stop pimping.

Lord Hanson of Flint (Lab): I am grateful for that. As I said, the Home Office has examined and looked at a range of alternative methods of regulation and legislation from other countries. The issue of licensing is outside these amendments and the legislative proposals in the Bill, so I do not wish to go down that route today. But obviously we look at all experiences. Our main objective is to ensure that we support, and protect the safety of, individuals who choose to involve themselves in this work, and at the same time to ensure that no harm comes to wider society as a result of those actions. I am grateful to the noble Earl for raising this today, but it is not an issue that I can explore at this moment, for the reasons I have outlined.

Amendment 308 agreed.

Amendment 309

Moved by ***Lord Hanson of Flint***

309: After Clause 86, insert the following new Clause—

"Pardons for convictions and cautions for loitering or soliciting when under 18

(1) The Policing and Crime Act 2017 is amended as follows.

(2) After section 165 insert—

"165A Pardons for convictions etc for loitering or soliciting when under 18: England and Wales

(1) Subsection (2) applies in respect of a person (whether living or deceased) who—

(a) was convicted of, or cautioned for, an offence under section 1 of the Street Offences Act 1959 (loitering or soliciting for the purpose of prostitution), and

(b) was aged under 18 at the time of the offence.

(2) The person is pardoned for the offence.

(3) Expressions used in this section or section 167(1) (so far as relating to this section) and in Chapter 4 of Part 5 of the Protection of Freedoms Act 2012 have the same meaning in this section or (as the case may be) section 167(1) as in that Chapter (see section 101 of that Act).".

(3) In section 167 (sections 164 to 166: supplementary)—

(a) in subsection (1) for "or 165" substitute ", 165 or 165A";

(b) in subsection (2) for "or 165" substitute ", 165 or 165A"."

Member's explanatory statement

This amendment would provide for pardons for persons convicted of or cautioned for loitering or soliciting for the purpose of prostitution when they were under 18.

Amendment 309 agreed.

Amendments 310 to 314 not moved.

Amendment 315

Moved by ***Baroness Brinton***

315: After Clause 86, insert the following new Clause—

"Commencement of the Protection from Sex-based Harassment in Public Act

(1) Section 4 of the Protection from Sex-based Harassment in Public Act 2023 is amended as follows.

(2) Leave out subsection (3) and insert—

"(3) Sections 1, 2 and 3 come into force on the day that the Crime and Policing Act 2025 receives Royal Assent."."

Member's explanatory statement

This new clause automatically commences the Protection from Sex-based Harassment in Public Act 2023 when the Crime and Policing Bill receives Royal Assent, removing the need for regulations to bring the Act into force. The Act criminalises the public harassment of individuals where that harassment is based on an individual's sex.

Baroness Brinton (LD): My Lords, Amendment 315 seeks to do something very simple but long overdue: automatically commence the Protection from Sex-based Harassment in Public Act 2023 when the Crime and Policing Bill receives Royal Assent. The Act requires the Government to pass a statutory instrument to commence its provisions. We have been waiting two years now for this SI, so the Act is not in force. Of the four sections in the Act, the only one in force is Section 4, on the extent, commencement and Short Title of the Act.

As with other groups this evening, this amendment has a cross-party background. It is worth noting and giving credit to Greg Clark, the former MP for Tunbridge Wells, because this was his Private Member's Bill, sponsored by him and given time by the then Conservative Government. Greg said he had heard some harrowing experiences of school students in his constituency. It is really shocking that one in three girls reports being sexually harassed while wearing a school uniform. In our society in 2025, that is unacceptable. The 2023 Act creates a new specific offence of harassment on account of an individual's sex.

The amendment to this Bill was tabled in the Commons by my honourable friend Mike Martin MP, who is now the MP for Tunbridge Wells. Like Greg Clark, Mike Martin believes that the Government need to create the statutory instrument to bring it into effect, but there has been nothing other than warm words from Ministers—no action has happened. The Act criminalises harassing, following, shouting degrading words or making obscene gestures at women and girls in public places with the deliberate intention of causing them harm or distress. This offence will carry a maximum sentence of two years' imprisonment and under the Government's new proposal would clearly still come under the magistrates' courts, whereas in the past it would have not been able to, but would have had to go to a Crown Court. As Mike Martin MP said in the Commons debate, sexual harassment is a blot on our society.

[Baroness Brinton]

The statistics are damning. Some 71% of women in the UK have experienced sexual harassment in public; this rises to 86% among women aged 18 to 24. The lack of action from this Government on ending the sexual harassment of women, especially young women, is not good. Mike Martin MP tabled a Written Question on this back in the spring, and the Government said then that they would publish their next steps. However, more recently, the Government said that it will be done in due course. To be honest, this sounds as though it is further away than the next-steps offer made earlier this year. The amendment says that now is the time.

Greg Clark's Private Member's Bill had cross-party support and this amendment also had cross-party support when the Bill was debated in the Commons. I worry that this Government cannot deliver on their manifesto commitment to halve violence against women and girls when they will not take this straightforward first step to challenge and prevent the appalling sex-based harassment that continues to be so evident everywhere in the UK. I look forward to the Minister's reply but, above all, I urge that now is the time for action on this matter. I beg to move.

Lord Pannick (CB): My Lords, I support the noble Baroness's amendment for the reasons she gives and for a further reason, which is that I deprecate the practice of Ministers of all Governments of not bringing into force legislation which has been enacted by Parliament. Parliament intends legislation to come into effect; otherwise, we are wasting our time debating and approving it. Parliament enacts legislation to address a mischief, as, in this case, the mischief that the noble Baroness, Lady Brinton, has identified. Of course, I understand that sometimes time is needed to prepare for the effects of legislation, perhaps because implementing regulations are needed, but after two years, it is high time for this legislation to come into force.

Baroness Doocey (LD): My Lords, this amendment exposes the indefensible gap between Parliament's clear intent and women's lived reality. The new offence was deliberately framed to capture deliberate, targeted and deeply damaging conduct, with a suitably serious maximum penalty, but without commencement, there are no consequences for offenders and no visible progress for the public. The Government's delay sits uneasily alongside their stated ambition to halve violence against women and girls, particularly given previous assurances that implementation would follow swiftly as part of their wider strategy.

From these Benches, the message is simple: Parliament has already done the hard work in legislating; what is now required is immediate commencement, not further consultation or prevarication, so that this cross-party achievement can finally begin to offer real protection on the streets and in public spaces.

Lord Cameron of Lochiel (Con): My Lords, I am very grateful to the noble Baroness, Lady Brinton, for moving this amendment, which, as she says, seeks to accelerate the commencement of the 2023 Act. The intention behind the amendment is clear and wholly understandable: to ensure that victims of sex-based harassment benefit from protections that Parliament has already approved, and to do so without further delay.

Without doubt, there is a shared desire across this House to see individuals, particularly women and girls, better protected from harassment in public spaces, and while I entirely understand that commencement provisions often involve important practical and operational considerations, including the readiness of policing and guidance frameworks, and that there has to be an explanation of the implications of altering the timetable set out in the original Act, we on these Benches recognise the motivation behind the amendment and the concerns that it seeks to address.

If the Government do not agree with the amendment, we look forward to hearing from the Minister what progress there has been towards commencement and whether the approach proposed here would assist the effective implementation of the Act's provisions.

Lord Hanson of Flint (Lab): I am grateful to the noble Baroness, Lady Brinton, for raising the important issue of public sexual harassment. As has been discussed, Amendment 315 seeks to automatically commence the Protection from Sex-based Harassment in Public Act 2023 when the Crime and Policing Bill receives Royal Assent. I remind the Committee that this Government have been responsible for periods of activity since July 2024, not for two years. As members of the Committee will know, tackling public sexual harassment is an important part of the Government's mission to halve the levels of violence against women and girls in a decade.

As the Committee knows, and as I have said on numerous occasions, including today, the new violence against women and girls strategy is to be produced as soon as possible. It will include a range of actions to tackle sexual harassment. I reassure the noble Baroness, and the noble Baroness, Lady Doocey, from the Liberal Democrat Front Bench, that the measures we are developing within this to address sex-based harassment include options for commencement of the 2023 Act.

I echo fully the sentiments of the noble Baroness and the noble Lord, Lord Cameron of Lochiel, and agree that timely implementation of legislation is an important principle to follow. I share the view of the noble Lord, Lord Pannick, that, if we pass legislation, we must look to introduce it. The Government have heard what noble Lords have said: namely, that we need to set a timeline for the commencement of the 2023 Act. It is important to fully consider the issues of implementation of the new offence, including engagement with the police and operational partners. We want to ensure that, when the offence comes into force, it is used often and well.

I assure all noble Lords who have spoken today that the Government intend to commence this offence as soon as is reasonably practicable. By bringing the provisions of the 2023 Act into force through the usual commencement regulations, we can ensure that this can be timed so that the police and others are ready. Accordingly, I suggest that the amendment is unnecessary. I ask the noble Baroness to be patient and wait for our violence against women and girls strategy, which will appear in short order. In the meantime, I hope she is content to withdraw the amendment.

I say that because we are looking at options to commence the Protection from Sex-based Harassment in Public Act 2023. We believe that it will tackle this issue and ensure that women feel safer on our streets. On the point made by the noble Lord, Lord Pannick, as with all primary legislation, we need a preparatory period, but my officials in the Home Office, along with my ministerial colleagues, are working through the next steps. We are taking the time to get this right. I assure noble Lords that we will provide an update in due course and that they will not have too long to wait.

Baroness Brinton (LD): I am struggling to get what I have just heard right. Earlier this evening, we discussed a number of amendments in which we were not supported because we expect to see the strategy on violence against women and girls. This is completely different. There is legislation that is on the books but has not been commenced. Can the Minister explain why it cannot be commenced now? It is a completely different issue from what is going to be in the strategy, where there may be surprises. The Minister has told us that it will be commenced. What is the delay?

Lord Hanson of Flint (Lab): We are looking with police and other partners at the stage at which we wish to commence the legislation. We have been in office since July last year; my honourable friend Jess Phillips, the Minister for Safeguarding, is undertaking a considerable amount of work to pull together the strategy, which we expect to be able to announce in very short order. As part of that strategy, we are looking at a range of measures, including harassment. I accept that that is on the statute book now, but it is important that we produce a package of measures that is whole and includes a range of things, which I am not at liberty to talk about today but are in genesis for the violence against women and girls strategy that we will publish shortly.

We are now in Committee. Report will happen at a later stage in this Session. I very much expect that by then we will have published our violence against women and girls strategy, and I hope that at that stage the noble Baroness will not need to look at pressing this amendment further. For the time being, I ask her to give us time to consult further, make sure we implement this correctly and allow the violence against women and girls strategy to be published. I would be grateful if she would not push her amendment at this stage but reflect on what I have said. If not, we will return to this in due course.

9.30 pm

Baroness Brinton (LD): I am very grateful to the Minister for his response, even if I am still somewhat bemused about the hierarchy of decisions going on in relation to this Bill when there is actually something on the books. However, I will hold him to his word. If we do not have clear indications of the VAWG strategy and when things will happen by, I will bring back an amendment on Report. In the meantime, I beg leave to withdraw.

Amendment 315 withdrawn.

Amendment 316

Moved by ***Lord Black of Brentwood***

316: After Clause 86, insert the following new Clause—

"Animal sexual abuse

(1) The Sexual Offences Act 2003 is amended in accordance with subsection (2).

(2) For section 69 (intercourse with an animal) substitute—

"69 Animal sexual abuse

(1) A person commits an offence of animal sexual abuse if they—

(a) intentionally engage in sexual activity with an animal, whether penetrative or non-penetrative,

(b) cause, coerce or permit another person (including a child) to engage in such activity with an animal, or

(c) cause, coerce or permit an animal to be used for the purpose of sexual gratification, whether their own or another's

whether that animal is living or dead.

(2) For the purposes of this section, "sexual activity" includes—

(a) penetration, or an attempt to penetrate the vagina or anus by a penis or other body part as well as by the use of objects;

(b) sexual touching or stimulation of an animal;

(c) the sexual stimulation of a person through contact with an animal;

(d) any other act undertaken for the purpose of sexual gratification of a person involving or directed at an animal.

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

(a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years.

(4) Where a person is convicted of an offence under subsection (1), the court may make such order as it thinks fit with respect to the animal concerned and any dependent offspring, including—

(a) depriving the offender of ownership of the animal and for its disposal, including by sale, gift, rehoming or destruction;

(b) appointing a person to carry out, or arrange for the carrying out of, the order.

(5) The court may also make an order under this section (a "disqualification order") in the terms set out in section 34(2) of the Animal Welfare Act 2006, prohibiting the offender from one or more of the following—

(a) owning animals;

(b) keeping animals;

(c) participating in the keeping of animals;

(d) being party to an arrangement under which they are entitled to control or influence the way in which animals are kept;

(e) dealing in animals;

(f) transporting animals.

(6) A disqualification order under subsection (5)—

(a) must specify the period for which it has effect, including for life, and

(b) shall be treated for all purposes as if made under section 34 of the Animal Welfare Act 2006.

(7) A court by or before which a person is convicted of an offence under this section may also order that the offender be subject to the notification requirements of Part 2 of this Act.

(8) Where a court decides not to make an order under subsection (4), (5) or (7) in relation to an offender, it must—

(a) give its reasons for the decision in open court, and

(b) if it is a magistrates' court, cause them to be entered in the register of its proceedings.".

(3) The Criminal Justice and Immigration Act 2008 is amended as follows.

(4) In section 63 (extreme pornographic images), omit subsection (7)(d) and insert—

"(d) a person engaging in sexual activity with an animal whether dead or alive, whether penetrative or non-penetrative,".

(5) In section 67(5)(a) (penalties etc. for extreme pornographic images), after "63(7)(a)" omit "or (b)" and insert ", (b) or (d)".

(6) After section 67(5), insert—

"(6) Where a person is convicted of an offence under section 63(7)(d), the court may make such order as it thinks fit with respect to the animal concerned and any dependent offspring, including—

(a) depriving the offender of ownership of the animal and for its disposal, including by sale, gift, rehoming or destruction;

(b) appointing a person to carry out, or arrange for the carrying out of, the order.

(7) The court may also make an order in relation to an offence under section 63(7)(d) (a "disqualification order") in the terms set out in section 34(2) of the Animal Welfare Act 2006, prohibiting the offender from one or more of the following—

(a) owning animals;

(b) keeping animals;

(c) participating in the keeping of animals;

(d) being party to an arrangement under which they are entitled to control or influence the way in which animals are kept;

(e) dealing in animals;

(f) transporting animals.

(8) A disqualification order under subsection (7)—

(a) must specify the period for which it has effect, including for life, and

(b) shall be treated for all purposes as if made under section 34 of the Animal Welfare Act 2006.

(9) A court by or before which a person is convicted of an offence under section 63(7)(d) may also order that the offender be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.

(10) Where a court decides not to make an order under subsection (6), (7) or (9) in relation to an offender, it must—

(a) give its reasons for the decision in open court, and

(b) if it is a magistrates' court, cause them to be entered in the register of its proceedings.".

(7) In section 34(10) of the Animal Welfare Act 2006, at end insert, "and section 69 of the Sexual Offences Act 2003 and section 67(7) of the Criminal Justice and Immigration Act 2008."."

Member's explanatory statement

This amendment expands and clarifies two distinct but related offences: 1. Animal sexual abuse offences – covering direct acts of sexual abuse or exploitation of animals; and 2. Offences involving images of animal sexual abuse – covering the creation, possession, and distribution of extreme pornographic material depicting sexual acts with animals.

Lord Black of Brentwood (Con): My Lords, Amendment 316 stands in my name and those of the noble Lords, Lord Goddard of Stockport and Lord Trees, and the noble Baroness, Lady Coffey. They are all passionate supporters of animal welfare and I have had the pleasure of working with them on a number of important issues in the past. I am delighted to be able to do so again and thank them for their support. I am very grateful to the Animal Related Crime Working Group of the Chartered Society of Forensic Sciences for all the work it has done on this subject, along with other animal welfare charities including Cats Protection and Battersea Dogs & Cats Home.

Animal sexual abuse—to which, with apologies to my good friends at the Advertising Standards Authority, I will for ease refer to as ASA—is not an easy subject to address. It takes us to some dark places, evil crimes and some of the most depraved aspects of humanity. But it is vital that we discuss it in the context of this important Bill and take the opportunity to clarify and toughen the law.

We should do so in part because of the animal welfare issues. Animals subject to ASA often suffer terrible injuries or die. The lives of those that survive are damaged and they are scared and alone, with the perpetrators of these wicked crimes often those who should be caring for them. To harm a defenceless animal is one of the most terrible acts of cruelty imaginable and deserves to be dealt with by deploying the full force of the law. But it would be quite wrong to think of this as just a niche animal welfare matter, crucial though that is. The unpalatable and often unspoken truth is that this is a far more widespread issue about safeguarding, sitting four-square at the intersection of sexual offending, child protection, coercive control and domestic abuse.

Before I come on to the position of the law and why and how it needs to change, it is crucial to set out the background, because the evidence of the links between ASA and other serious offending, often involving children, is deeply disturbing. While evidence from the UK is sparse because of the difficulty of collecting data under current legislation, international studies underline the seriousness of the issues involved. A major study of ASA arrests over four decades in the United States found that nearly a third of animal sex offenders had also sexually offended against children and adults. Over half had prior or subsequent criminal records for human sexual abuse, ASA, interpersonal violence or related offences. A scoping review in 2024 found similarly consistent evidence that animal cruelty frequently co-occurs with intimate partner violence and child maltreatment, reinforcing the point that ASA is often part of a wider pattern of family violence.

Here in the UK, the charity Naturewatch Foundation has analysed prosecutions under Section 63 of the Criminal Justice and Immigration Act 2008, which covers the possession of extreme pornographic images. It found that in the two years of 2019 and 2020, on 73% of occasions where child sex abuse had occurred, ASA was present in the same case. Its written evidence

to an inquiry by the House of Commons Women and Equalities Committee summarises research showing that animal abuse occurs in around half of households that are affected by domestic abuse where there is also an animal on the premises. In one study, 71% of domestic abuse victims reported that the perpetrator also abused pets. That is sickening.

There are significant concerns regarding the use of extreme pornography, which has already been widely debated in Committee and which I have discussed with my noble friend Lady Bertin, who is supportive of this amendment. Here, a study reviewing FoI data provided by police forces across England and Wales and by the CPS found that nearly three quarters of extreme pornography cases involved ASA.

This issue is therefore clearly not just one about animal welfare, vital though that is. As a predictor offence, a red flag for broader sexual and domestic offending, it is about serious harm to often very vulnerable groups of people, and the law is currently not dealing with it effectively or comprehensively, or with the gravity it deserves. That has to change, which is why I have brought this amendment forward. To be legislating as we are on sexual offending and public protection without addressing these known gaps on ASA would be a serious missed opportunity, and in my view negligent on our behalf. It fits naturally with the structure of the Bill, as Part 5 deals with sexual offending, digital harms, sentencing and offender management, all covered by this amendment.

Let me say a word about the law as it stands. Currently, there is no clearly defined crime in law of animal sexual abuse, including under the Animal Welfare Act 2006. Offences are covered by two separate pieces of legislation. Section 69 of the Sexual Offences Act 2003 relates to intercourse with an animal, but is limited in scope, covering only penile penetration. The maximum sentence is two years' imprisonment on indictment. In the last full year, according to figures that the Minister kindly let me have in reply to a Written Question, there were no cases proceeded against and only one the year before. Section 63 of the Criminal Justice and Immigration Act 2008 covers the possession of extreme pornographic images. These cover acts of intercourse or oral sex with an animal, whether dead or alive, and non-consensual penetration of a person's vagina or anus by an animal.

In short, existing legislation is fragmented, imprecise, ineffective and incomplete. It is far too narrowly focused, failing adequately to reflect the range of behaviours encountered in modern police investigations, with many sexual acts falling outside of scope. Image-based offences are prosecuted under legislation designed for a very different digital age from the one we live in. All that causes real problems for the police, the CPS and the courts, which do not have the certainty and powers to investigate, prosecute and sentence. As a result, far too many heinous crimes are inevitably going unpunished. Even more importantly, far too many vulnerable people are being left at risk of sexual offences or domestic abuse because red flags and predictor offences were not registered and managed properly.

To deal with all this, my amendment would create two linked offences. First, it would create a comprehensive offence of animal sexual abuse, which would cover penetrative and non-penetrative sexual acts, including acts committed for sexual gratification whether or not there is physical penetration, and situations where children or others are involved or made to witness the abuse. The maximum penalty would be five years' imprisonment, which is proportionate to the seriousness of the conduct and aligned with comparable sexual offences.

The second is a separate offence relating to images of ASA in line with the structure and sentencing framework of Section 63 of the Criminal Justice and Immigration Act 2008, carrying a maximum of three years' imprisonment. This would close the gap where images of ASA sit at the margins of extreme pornography, despite clear overlap in practice with child sexual abuse material.

The amendment would also equip the courts with: safeguarding tools that are already familiar in other sexual offending contexts; disqualification orders under Section 34 of the Animal Welfare Act 2006, preventing future ownership or control of animals where appropriate; deprivation and disposal powers in respect of animals used in the commission of the offence; and the application of the notification requirements of Part 2 of the Sexual Offences Act 2003, so that the most serious offences can be monitored in the same way as other sexual offenders. All those would be discretionary—rightly preserving judicial flexibility—but crucially, they would ensure that, when the courts identify a pattern of offending, they have the tools they need to manage the risk to children, partners and animals.

The heart of the amendment, which is based on peer-reviewed research and evidence to Parliament, is about improving protection for both animals and vulnerable people. In line with existing sentencing and notification frameworks, it would ensure that those who commit these heinous offences can be properly prosecuted, monitored and managed. It would prevent so much suffering. I hope that the Committee will support the amendment. If the Government have any concerns about the wording, perhaps the Minister will be able to work with me and colleagues across the Committee to ensure we achieve robust modern animal sexual abuse provisions and include them in the Bill.

Finally, I will briefly say a few words about Amendments 316ZA to 316ZE, in the name of my noble friend Lord Blencathra, from whom we will hear in a moment. I know that he is a great champion of animal welfare, and it has been a pleasure to work with him in the past on important legislation. He is a great campaigner and champion. I know that he agrees with me on the principles involved here and the substance of the amendment; the issue is simply about terminology and the use of the word "bestiality". He raises an important point, and I am glad that we will have the opportunity briefly to discuss it.

From my own discussions, I understand that the veterinary forensic and safeguarding communities have very deliberately moved away from the term in favour of "animal sexual abuse", for a number of reasons. First, and most importantly, because of the evidence firmly establishing the links between ASA and the abuse of children, using the language of sexual abuse ensures that those shared risks are recognised consistently across disciplines and that we are talking about these

[Lord Black of Brentwood]
behaviours in a way that supports safeguarding. Secondly, "bestiality", sadly, is frequently misunderstood as pertaining only to farmed animals; in reality, we see such offending across a range of species, including companion animals, fish and even reptiles and cephalopods. The terminology of ASA reflects that wider reality. On those points, I beg to move.

Amendment 316ZA (to Amendment 316)

Moved by ***Lord Blencathra***

316ZA: In subsection (2), in the heading of the inserted section, leave out "sexual abuse" and insert "bestiality"

Member's explanatory statement

This amendment seeks to alter the wording of Amendment 316 to refer to "animal bestiality" rather than "animal sexual abuse".

Lord Blencathra (Con): My Lords, I congratulate my noble friend Lord Black of Brentwood on introducing his proposed new clause and on running through the sordid details, which we did not want to hear and do not want to think about, but had to hear if we are to have better legislation, which I believe his proposed new clause will introduce. His proposed new clause is far superior to Section 69 of the Sexual Offences Act 2003, since it describes the abuse of the animal and not just the perversion of the offender. It links to all the other online offences we have in the Bill—where people are publishing dangerous and pornographic pictures of abuse, strangulation, et cetera—and animal sexual abuse needs to be included there too. Therefore, I strongly support his amendment, which has also been signed by other noble Lords and my noble friend Lady Coffey.

When I first saw his amendment, I was motivated to use the term "bestiality", since I was brought up in Scots law, which had very robust words to describe illegal sexual activity—at least illegal a few years ago. Bestiality is still the term used in Scotland. I initially thought that the term "abuse" was milder than bestiality and that bestiality conveyed a more condemnatory stance of the filthy perverts who were doing this. However, after a discussion with my noble friend Lord Black of Brentwood, I now agree that bestiality is a more restrictive legal term focusing on the perverted behaviour of the man rather than the abuse of the animal. Abuse is the key word here. I accept that the terminology "animal sexual abuse" is a more contemporary term emphasising the act as cruel and exploitative rather than just a taboo behaviour.

9.45 pm

As my noble friend pointed out, people often begin by torturing animals and then move on to stronger things, whether it is rape or killing. In fact, I recall that James Bulger's killers had a track record of pulling the heads off baby pigeons and tying rabbits to railway lines to let the trains run over them, and they displayed a general animal abuse motive. That was not unique to those killers, because it happens in thousands of cases: people start off with animal abuse and animal sexual abuse and move on to carrying out the same abuse against humans.

On my amendments to delete summary trials, as the Committee knows, I am always an advocate for much harsher penalties and feel that the vile abuse of animals should be a Crown Court matter. However, I will not persist with that either, and I trust the judgment of the noble Lords who have tabled the excellent proposed new clause. For all these reasons, I will not seek to press any of my amendments.

Lord Pannick (CB): My Lords, since the noble Lords, Lord Black and Lord Blencathra, have said that this is not an easy subject, I remind the Committee of what happened when Section 69 of the Sexual Offences Act 2003 on sex with animals was debated in this House in Committee on 1 April 2003. I draw attention to what the noble Lord, Lord Lucas, said on that occasion:

"I hope that this matter is not something that most noble Lords come across. As we rarely have the opportunity to talk about such subjects, it seems right to ensure that any possible imperfections in the wording are covered, however difficult it may be to talk about them".—[*Official Report*, 1/4/03; col. 1186.]

That wise advice applies today.

The prohibition of sex with animals has a long history. It was proscribed in Leviticus, chapter 18, verse 23. Coke's 17th-century *Institutes of the Lawes of England*, volume 3, page 59, refer to the criminal offence by a "great Lady" who

"committed Buggery with a Baboon, and conceived by it".

As the noble Lord, Lord Black, has explained, the limits of Section 69 of the Sexual Offences Act, like its predecessors, are that it covers only some sexual activity—penile penetration of the vagina or anus of the animal or of a human being by an animal—and does not apply to sexual activity with a dead animal. The exclusion of sex with a dead animal is particularly odd, as the next section of the 2003 Act, Section 70, does make it a criminal offence to engage in penetrative sex with a human corpse. The amendment would extend the scope of the offence to cover all "sexual activity" with an animal or using an animal for sexual gratification.

The noble Lord, Lord Black, has sought to define sexual activity in this context with a degree of precision in proposed new subsection (2), but has also left room for debate by stating that sexual activity "includes" what is specified. Of course, sexual activity is as broad as the human imagination. I suggest to the noble Lord, Lord Black, that it would be preferable for an amendment to the law not to attempt a legislative *Kama Sutra* of possibilities but rather to adopt the approach seen in other sections of the 2003 Act.

The 2003 Act already uses the concept of "sexual activity", for example in Section 4, and Section 78 provides a general definition of sexual activity. Sexual activity, says Section 78, means what a reasonable person would regard as sexual in nature, irrespective of the defendant's purpose in relation to it. There is a slightly different definition in Section 71 relating to sexual activity in a lavatory, and I confess that I have not fully understood why Parliament in 2003 used a slightly different definition in that context. However, I suggest to the noble Lord, Lord Black, that it would be better to have a portmanteau phrase, "sexual activity", so defined, which is already the approach that the 2003 Act takes in Sections 4 and 78.

I am pleased that the noble Lord, Lord Blencathra, will not pursue his original wish to substitute the term "bestiality". My understanding is that, as a matter of

law, bestiality is confined to penile penetration of the vagina or anus, which is contrary to the admirable intention of the noble Lord, Lord Black, to broaden the scope of the legislation.

It may also be helpful to include a definition of an "animal" in the new clause by cross-reference to other statutory definitions. As the Committee will know, the Animal Welfare Act 2006 provides by Section 1 that it applies to vertebrates other than man, but there is a power by regulations to extend the protection to cover classes of invertebrates. The Animal Welfare (Sentience) Act 2022 covers, in addition to non-human vertebrates, molluscs and crustaceans. I doubt—the noble Lord, Lord Black, may have broader knowledge than me—whether sexual activity with a mollusc or a crustacean is a mischief which the Bill needs to address.

I have one final point. As was mentioned, this amendment would increase the maximum sentence of imprisonment for the Section 69 offence from two years to five years. I am doubtful about that. I would expect that defendants who are found guilty of the sexual abuse of animals nowadays are, as they always were, sad, pathetic individuals who need help rather than a lengthy prison sentence of more than two years. I would be very interested to hear from the Minister whether in any of the cases under the current Section 69 in the last few years any defendant has received a sentence of two years, or whether any judge has complained that the current sentencing powers of a maximum of two years are inadequate.

Lord Goddard of Stockport (LD): My Lords, I support Amendment 316 from the noble Lord, Lord Black of Brentwood. Unfortunately, the noble Lord, Lord Pannick, has just taken my entire speech away from me, so I will not quote Coke's. I thank him for what he has said. He is a lawyer and he has tried to help with this.

On the point of this amendment—I declare an interest as a vice-chair of the APPG on Cats—the noble Lord, Lord Black of Brentwood, has our support on animal welfare, and indeed he has been driving this for a number of years via a number of APPGs. So the essence of what he is trying to do is right. The comments that the noble Lord, Lord Pannick, made are helpful: perhaps when we get to another place, we will have a better-worded amendment that carries more support.

For me, the reason I am supporting this is because of the animal side, but there is evidence that the abuse of animals leads to abuse of children. That link is clear, and there is evidence from everywhere that that is where it starts, but it ends with children and young people.

That is why this amendment, difficult as it is to speak about, is vital. When the evidence is there of a cause leading to a different cause that is worse, the amendment should get the support of this House and the Government. The noble Lord, Lord Blencathra, is right; he is trying to right a wrong and he understands the points of law. His principle is right: this does need resolving, and it is an important issue to animal lovers. Lots of animal lovers in this country have no idea that this is going on around them. The noble Lord, Lord Pannick, may be right, in that some of the people in question are poor people who are not part of society; but there are also those who kill animals for videos and live feeds, to be watched for money. That is going on all around the world; it is not just an English problem.

There is a bigger picture. This is not just about an unfortunate person abusing an animal; like everything else in today's debate, it is a wider society problem. I hope that people approach this with the gravitas it deserves. Animal abuse is one thing; but transferring that to children and young people is equally important. That is why I support the amendment.

Baroness Doocey (LD): My Lords, this group of amendments reflects the realities that the police, the NCA and child protection agencies now face, with children being coerced online into self-abuse, harming siblings or even abusing their family pets under pressure to provide images or live streams as proof. The overlap between child sexual abuse—as the noble Lord, Lord Black, has so clearly demonstrated—offline offending and animal cruelty is now recognised in safeguarding and law enforcement practice. It comes alongside a wider surge in online animal abuse content, in which abuse is staged, filmed and shared for attention or gratification. Strengthening the law on animal sexual abuse so that it reflects how this behaviour is perpetrated and disseminated online is therefore necessary and overdue.

Two points are critical. First, terminology matters. Animal sexual abuse is now used in policing and safeguarding precisely because it captures a wide range of exploitative conduct that is formed, traded and used to control and terrorise victims, including children. Narrowing the language risks opening loopholes that offenders will exploit. Secondly, these reforms need to go hand in hand with better investigation, data sharing and sentencing so that the growing volume of image-based offending against children and animals results in real accountability rather than just statistics.

The sexual abuse of animals and the use of such material within wider abusive networks, which is reprehensible, must now be treated with the seriousness the evidence demands.

Lord Cameron of Lochiel (Con): My Lords, I thank my noble friend Lord Black for his contribution this evening and for his amendments. I welcome the moving of Amendment 316.

As others have said, animal sexual abuse is one of the cruellest acts imaginable. It sees the taking advantage of defenceless creatures, often by those who are expected to be caring for them, and shows complete disregard for living, conscious, feeling creatures who frequently become damaged, traumatised and often die as a result of ASA. I wholeheartedly agree with all noble Lords that it is an offence that deserves to be dealt with using the full force of modern law. The amendment would ensure that the law reflects the severity of the crime. As has been outlined by other noble Lords, applicable legislation is currently fragmented and often parochial. At present, too many offences fall outside the scope of prosecution and the legislative framework is not reflective of the current reality.

I will not repeat all the statistics presented in my noble friend's excellent opening speech, but it is worth emphasising a couple of his points. The first is the

[Lord Cameron of Lochiel]
connection of ASA with child sexual abuse offences, general sexual offences, domestic abuse and coercive and exploitative behaviour. As was demonstrated, there exists empirical evidence that proves this correlation. In the United States of America, for example, nearly one-third of ASA offenders have also sexually offended against children and adults. In the UK, 71% of domestic abuse victims have reported that the abuser also targeted pets. There is clear evidence that certain offenders commit similarly related crimes.

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Secondly, there is the coexistence of extreme online content and ASA. There are dozens of peer-reviewed studies demonstrating the prevalence of ASA online and its correlation with other forms of extreme and illegal content. An analysis of FoI data has shown that three-quarters of extreme pornography cases have involved ASA. This in and of itself should merit legislating for online ASA offences.

Animal abuse reports are increasing. People are seeing more of this content online. It is very extreme. It is very graphic. Bringing ASA in line with the current law and closing existing gaps are measures that we hope the Government would support. I am grateful to my noble friend Lord Blencathra for his contribution, and I note that he is not pressing his amendments.

To conclude, we are all in agreement on the need for more measures to reduce the suffering of animals. I hope that the Minister will reflect on all the speeches in this debate. It is an argument that holds up both morally and practically and is driven by an extensive amount of research and data. I look forward to hearing what she has to say.

The Parliamentary Under-Secretary of State, Ministry of Justice (Baroness Levitt) (Lab): My Lords, I do not think anyone could disagree that this is a deeply troubling and uncomfortable issue. I begin by thanking the noble Lord, Lord Black, for moving his amendment, and the noble Lords, Lord Goddard and Lord Cameron, and the noble Baroness, Lady Doocey, for their contributions. I also thank the noble Lord, Lord Black, for sharing a copy of his speech with me yesterday—it was helpful and informative.

The Government are committed to protecting animals and holding to account those who abuse animals. I listened with care to the concerns raised by the noble Lord. These are horrible offences. That said, we believe that the criminal law as a whole already provides sufficient powers to tackle the sexual abuse of animals as well as the robust offences to tackle child sexual abuse and domestic abuse.

I pause here to say that while this is not a laughing matter in any way at all, I shall long remember the striking description of the *Kama Sutra* of sexual offences against animals given by the noble Lord, Lord Pannick. I will have to write to him about the sentences imposed for animal abuse, although I am rather minded to agree with those noble Lords who spoke about the fact that there are pathetic individuals but there are also some really wicked ones out there as well.

As the noble Lord, Lord Black, has said, sexual abuse of animals causes them suffering. It is therefore possible to prosecute sexual acts involving animals under broader animal cruelty offences, which bring with them additional powers for the courts to impose orders on offenders.

As the noble Lord said, this is in addition to Section 69 of the Sexual Offences Act 2003 and Section 63 of the Criminal Justice and Immigration Act 2008. The latter two offences are listed in Schedule 3 to the Sexual Offences Act 2003, meaning that if convicted, individuals are automatically subject to the notification requirements, which is colloquially known as being on the sex offenders register.

We acknowledge that the law in this area is set out across a number of different offences. However, we believe that, taken together, these offences ensure that there is sufficient coverage of the sexual abuse of animals in criminal law. We are not persuaded at present that these amendments would substantially increase protection for animals or for people who are victims of sexual abuse. There is plainly coexistence of the two groups of offences. We are less sure that there is evidence for a causative link between the two.

Having said that, I welcome the evidence that the noble Lord shared in his speech. To that end, I would welcome a discussion with him in the coming weeks to look at the issues he has raised; first, in relation to the need for specific further offences and, secondly, the evidence in relation to the possible causative links between the two groups of offending.

My notes say that I will now turn to Amendments 316ZA to 316ZE, tabled by the noble Lord, Lord Blencathra, but I shall not turn to those, as the noble Lord does not intend to press them. I am grateful to him for his temperate and constructive comments on this issue.

I was going to say that I would be happy to meet with either or both of the noble Lords to discuss any evidence suggesting that there are gaps in the law. That offer still holds good. In the meantime, I invite the noble Lord, Lord Black—

Lord Pannick (CB): I am grateful to the Minister. Does she not agree, however, that it is arbitrary in the extreme that Section 69 of the Sexual Offences Act 2003 addresses sex with animals, but that it covers only specific, very limited forms of sexual activity? If you are going to have a specific offence, surely it should cover a wider range of sexual activity with animals, not just the limited categories that we have discussed.

Baroness Levitt (Lab): The Government are satisfied that, when looked at as a whole, all the possible offences here cover the conduct complained of. However, I am conscious that there are ways of committing sexual offences that have not necessarily occurred to the draftsmen of earlier legislation. The best that I can offer the noble Lord is that I will reflect on the matter. I invite the noble Lord, Lord Black, to withdraw his amendment.

Amendment 316ZA (to Amendment 316) withdrawn.

Amendments 316ZB to 316ZE (to Amendment 316) not moved.

Lord Black of Brentwood (Con): I am very grateful to all noble Lords who have taken part in this debate. It is always good to move an amendment when there is a unanimity of view across the Committee; it does not happen to me terribly often. I am particularly grateful to the noble Lord, Lord Pannick, both for reminding us of the wise words of my noble friend Lord Lucas—that we do not get to talk about this horrible issue very often so, when we do, we need to make sure that we take the opportunity to tighten the law where necessary—and for his suggestions on the wording of the clause, which I will look at. His point about a portmanteau definition is a very good one.

I am grateful to the Minister for the offer of a meeting on this. I would like to take her up on it, perhaps with colleagues from across the Committee. I do not think it is satisfactory that the law is a patchwork and one has to take an overall view of it to ensure that these terrible offences are properly covered. The point that the noble Lord, Lord Pannick, made is right: the scope of the existing law is far too limited to capture the whole range of offences that are taking place, particularly online. Much of this law was written at a time before that was happening. So I would like to come and see the noble Baroness, perhaps with some of the charities involved, to talk further about this and what might be done. In the meantime, I beg leave to withdraw the amendment.

Amendment 316 withdrawn.

Amendments 316A and 316B not moved.

House resumed.

Planning and Infrastructure Bill

Returned from the Commons

The Bill was returned from the Commons with an amendment.

Employment Rights Bill

Returned from the Commons

The Bill was returned from the Commons with amendments.

Mental Health Bill [HL]

Returned from the Commons

The Bill was returned from the Commons agreed to.

House adjourned at 10.09 pm.