
Caroline Lucas: I do not think that I am making assertions. I am asking questions about whether it will be possible for people in all circumstances to go through very formal processes at a time when they may well be living in a culture of fear and when, by definition, severe conflict is going on. Such people might already have

been fingered as someone who is trying to leave and be at particular risk of attack from others. I am describing a rather more complex situation than someone simply using the postal system, knowing what they have

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to do next and then marching down to the consulate and doing it. The reality on the ground is likely to be far more complex than the hon. Gentleman suggests.

If someone does complete the process successfully, the Home Secretary will have what is defined as "reasonable time" to let them come home. I am concerned that, as far as I can see, there is no indication of what that time would be. The period of enforced temporary residence in another country could effectively trap British citizens in countries where jihadi groups have a strong presence, such as Sudan, Somalia, Turkey, Syria and Iraq. As the human rights group Liberty states:

"Those who are equivocal are more likely to be pushed towards terrorist factions by the imposition of executive led punishments and enforced periods in close proximity to such groups."

If the primary purpose of counter-terrorism policy is to make us safer, why would we take steps to alienate individuals by condemning them to exile when some of them—I quite understand that this does not apply to all of them—may simply have made a terrible mistake? They may have been horrified by the bloodshed and barbarism that they have seen and want to find a way to come home.

Mrs May: The hon. Lady has referred a number of times to "exile" for the individuals concerned. We have to be absolutely clear that the provision will not exile an individual or prevent them from having the right to return to the United Kingdom. It will mean that when they return to the United Kingdom, it will be on a managed basis under terms that the Government set.

Caroline Lucas: I thank the Home Secretary, and I accept that she is technically correct, but I am describing a situation in which, because a person has not been able to follow the process that she described, they cannot find a way back and feel as though they were in exile.

If the primary purpose of counter-terrorism policy is to make us safer, it is surely sensible to ensure that individuals who definitely pose a threat are somewhere where it is easier to keep an eye on them, investigate them, arrest them, charge them and prosecute them, should the evidence warrant it. Surely we want suspected terrorists close at hand so that we can take targeted action against them rather than allow them to roam who knows where doing who knows what. As the old adage goes, "Keep your friends close and your enemies even closer". Moreover, if someone is intent on carrying out a terrorist attack on British soil, does the Home Secretary really believe that having to apply for a permit and attend an interview will act as any kind of deterrent or obstacle?

The Government's scheme does have one element to recommend it, which is the steps taken to ensure that agencies and the police know of an individual's location should they need to place him or her under surveillance. That comes from the stipulation that someone return on a specific flight to a specific airport. However, I argue that the same outcomes could be secured by placing a simple notification requirement on carriers, as set out in new clauses 4 to 6. Crucially, as the right hon. Member for Holborn and St Pancras described, that approach would not automatically alert a terror suspect to the fact that they had come to the notice of the authorities and that their return was being monitored. I argue that it would instead facilitate a targeted and

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intelligence-led response, and that the ability to undertake close surveillance of suspects would be maximised, with a view to arrest and prosecution. The option under existing counter-terrorism powers of interviewing a suspect on their arrival back in the UK would also be retained, and there would be further options as appropriate.

I have some concerns about the human rights aspects of the proposals on TEOs, but I also believe that they could end up being counter-productive from a security perspective. They will not provide the robust level of security that people in Britain have a right to expect.

Mr George Howarth (Knowsley) (Lab): The right hon. and learned Member for Beaconsfield (Mr Grieve), my right hon. Friend the Member for Holborn and St Pancras (Frank Dobson), the right hon. Member for Haltemprice and Howden (Mr Davis) and now the hon. Member for Brighton, Pavilion (Caroline Lucas) have all argued, from slightly different standpoints, that the ideal situation is to have some sort of judicial process. I do not think anybody could argue against that from a democratic and human rights perspective. In cases in which there is the possibility of a prosecution or other judicial process to bring about the type of outcome that we desire, that is clearly the preferred option.

As I see it, the choice is between the measures in the Bill—temporary exclusion orders with a managed return—or a form of judicial process that might be even worse than that. Perhaps the Home Secretary will correct me if I am wrong, but in almost every case I can envisage that would be affected by this process, the information that will determine the trigger of a temporary exclusion order would be based on intelligence—she is not shaking her head in disagreement, so I will assume assent on that point. If that is the case, any form of judicial process to verify or authorise that process would inevitably involve wholly or partly closed proceedings. It would be impossible to give evidence from intelligence in open court for all the reasons that we have repeatedly debated. Although that is the ideal situation, given the presumption that in most, if not all, of these cases the evidence will be intelligence based, it will be difficult to rely solely on a court proceeding, no matter how it was constructed or held, other than on the basis that it would be either closed, or at very least semi-closed.

Mr David Davis: The right hon. Gentleman is a thoughtful and long-standing expert in this area, and he is right to say that it will be a Special Immigration Appeals Commission style process. In the past, however, SIAC-style processes with control orders and TPIMs have prevented quite egregious errors—he will remember the case of MI5 presenting the same passport two weeks running against two different suspects, and that being caught and stopped by the SIAC. My concern is not just about the increase in power; it is also the error rate and the fact that someone can be denied serious rights without a proper review. The right hon. Gentleman is right that a SIAC-style process would be necessary. He knows I am not fond of that, but it is better than nothing.

Mr Howarth: I think I am grateful to the right hon. Gentleman for his intervention, but none of that changes the fact that, regardless of the quality of the submission to the SIAC court, some intelligence material would be required. Even from a justice point of view that is not an ideal situation, and that is a problem.

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Julian Smith: Does the right hon. Gentleman agree that as well as the intelligence issue, the British people want the state to act in a nimble and dynamic way, as long as measures are proportionate, against one of the biggest threats to our security in decades? I suspect he acknowledges that broader point given his role on the Intelligence and Security Committee.

Mr Howarth: I was coming on to talk about the sorts of cases that we might be confronted with. If my remarks answer the hon. Gentleman's point, so be it. If not, I am sure he will intervene again.

Temporary exclusion orders and the managed return process, as the Home Secretary described it, is seen as the alternative to a judicial process that for various practical reasons would either be not very just, or at least closed or partly closed. It would therefore be impractical and difficult to judge whether proceedings were fair or otherwise for anyone who was not involved, and even for some of those who were. In principle the provisions in clause 2(1) are probably acceptable, but I have a couple of issues—this goes directly to the point made by the hon. Member for Skipton and Ripon (Julian Smith)—about how they will work in practice. Perhaps one way of looking at it would be to give examples of the kinds of cases that we are likely to see with people returning from Syria or Iraq. For convenience, I have bracketed them under three headings. They are not mutually exclusive and it is possible that in some cases all three will apply, and in others just one.

9.15 pm

The first group identified, supported by research, are those who return traumatised. We have all seen graphic examples of horrific acts that have taken place. Some of those returning traumatised will have witnessed beheadings and other atrocities carried out by those they have fought alongside. They may have had mental issues before they went out to fight with ISIS—or whichever group they were with—but it is certainly possible, because of that trauma, that they will have mental health issues when they come back.

The second category has been well documented by researchers in touch with people in Syria and Iraq: it is those who have gone out for idealistic reasons. They may have understandably opposed the Assad regime, felt there was a humanitarian cause and gone out there to do their bit for democracy and the liberation of the people in that part of the world. There is no doubt that some of them will become disillusioned. They may be quite easy to reintegrate back into society. They have seen the alternative and perhaps will have come to recognise the merits of our democratic system, the rule of law, human rights and so on.

Frank Dobson: I wonder whether, when the Home Secretary replies, she could make it clear who, in relation to Syria, would be regarded as a terrorist suspect. Would someone who is not a jihadist but has gone out to fight against the Assad regime, sympathising with and supporting the British Government, be regarded as a terrorist? There may even be a few who have gone out to fight for the Assad Government. Would they be regarded as terrorists? It is not at all clear.

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Mr Howarth: I think I am grateful to my right hon. Friend for his intervention, although I rather suspect it was aimed more at the Home Secretary than at me. Some fighters out there are involved in ISIS or another group and they went out to fight for a completely different cause from the one they have ended up fighting for. It is literally that complicated.

On the disillusionment front, we will talk about the Prevent strategy tomorrow. I suspect there are some means by which Prevent, or a revised form of Prevent, would be appropriate for those who have come back disillusioned and want to reintegrate back into society.

I am sure nobody will disagree that the most difficult group are those who were radicalised in the UK, adopted a particular kind of Salafist view and went out specifically in pursuit of jihad. They think still that they are out there creating a caliphate, which is the whole meaning behind what ISIS are doing. Some will return not because they have stopped believing in that particular ideology, but because they want to resume their activities in the UK. That is the most difficult group.

To conclude, I would be grateful if the Home Secretary answered a couple of questions. I realise it is difficult in an open forum such as this, but will she indicate what assessment will be carried out of the individuals concerned to determine which of those three categories—it might be all three—they fit into? Will the conditions applied to a managed return relate to that assessment? If she could say a bit more about that, it might give people greater confidence that the process she is proposing is preferable to a judicial process that, because it is based on intelligence, might at worst be completely closed and at best partly closed.

John McDonnell: I seek some clarity on clause 9 on pages 5 and 6.

We know of two young men who have left my constituency to fight—we believe—in Syria, and we worked with one of the families, with the assistance of the Government, to enable them to go to Turkey to try and convince the young man to return. When I read his letters to his parents, I found them to be extremely sincere. He thought he was going to Syria to fight against the Assad regime—he called it "jihad"—to protect people being bombarded by the regime and to prevent what he considered to be war crimes. I also found him sincere in his hope that his parents would not be distressed. It was a rather sad leaving letter. At one point, he explained to his parents that there was still a few bob left on his Oyster card for them to use. It was a short, extremely moving letter from a young man in his late teens, early 20s, explaining his intentions. I believe that many young men,

and possibly women, have gone out with what they and others would consider to be the best of intentions: to engage in a military action to protect people from the abuse of human rights by a dictatorial regime that, as we now know, was using gas and other weapons against its own people.

I am trying to find a mechanism to encourage people to come back and be reintegrated into our society because I think that a lot of people who went out realise they made a mistake; they might have thought their intentions virtuous in the first instance, but I think

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many of them would now acknowledge that they made a mistake and it has gone wrong. Clause 9, however, introduces significant offences. It states:

"An individual subject to a temporary exclusion order is guilty of an offence if, without reasonable excuse, the individual returns to the United Kingdom in contravention of the restriction on return specified in the order."

It would be extremely helpful if the Home Secretary gave us greater clarity, either now or later, about what a reasonable excuse would be. I would not want practicalities—for example, a person not knowing they had an exclusion order against them—to be an issue. Clause 9(4) states:

"In a case where a relevant notice has not actually been given to an individual, the fact that the relevant notice is deemed to have been given to the individual under regulations under section 10 does not…prevent the individual from showing that lack of knowledge of the temporary exclusion order, or of the obligation imposed under section 8, was a reasonable excuse for the purposes of this section."

We need to be clear about what a reasonable excuse would be in this instance.

Many of these individuals already led chaotic lives, but they are now in a zone of operations that in itself is chaotic, and I think that many will want to return. However, the fact that there is uncertainty about what would be a reasonable excuse for returning—of getting on that plane and coming back—and the risk of up to five years in prison or a summary conviction of up to 12 months could act as a disincentive.

I think we should be easing the path as best we can to as many as possible of those who want to come back to be de-radicalised or rehabilitated. In some instances, unless we are absolutely clear about the nature of these offences and, in particular, about what would be construed as a reasonable excuse for return when the person does not know whether a temporary exclusion order is in place, it could provide a disincentive to carrying out the purpose that the Government, the Opposition and others want to happen—the process of managed return.

Jeremy Corbyn: I shall speak briefly because I know the Home Secretary is about to reply. Following the speech of the right hon. Member for Haltemprice and Howden (Mr Davis) about the general direction in which anti-terror law has gone, I want to make two essential points. Ever since I have been a Member, we seem to have had some piece of anti-terror legislation before us every year. I assume that there is a very large department in the Home Office that is writing next year's anti-terror Bill and the one for the year after that. I am sure there will be an ambition to do that.

The theme that runs through all such legislation is an attempt to give greater and greater executive powers to the Home Secretary, which are usually rowed back by a combination of the courts and parliamentary action; then, a year or two later, we come back to yet another counter-terror Bill in respect of which the Home Secretary, no doubt with the very best of intentions, is nevertheless given a high degree of executive power. It is no part of our duty as elected Members of Parliament to undermine an independent judicial process and hand executive powers to Ministers, on the basis of which they can either detain or exclude people under any process whatever. That is fundamental to what I understand our democracy to be.

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Although there is—ultimately, I suppose—some degree of judicial oversight when an excluded person finally comes back to this country, I would have thought that the points made by my right hon. Friend the Member for Holborn and St Pancras (Frank Dobson) are surely true and important. If someone goes abroad, albeit on the basis of perhaps misguided notions about what they can do when they reach the zone of conflict to which they have gone, they will be there and will subsequently be prevented from returning. That might render them at risk of imprisonment by another judiciary, which might have much less concern for human rights than anyone here, and they could then be tortured and all kinds of terrible things could happen to them. Would the possession of British nationality on the part of someone affected in that way require the British Government to intervene on their behalf to stop them being tortured, given that the Government opposed their return to Britain in the first place? This whole process is full of many complications and contradictions, which I hope have been adequately thought through by the Home Secretary in introducing this legislation.

Secondly, I want to note the points made by my right hon. Friend the Member for Knowsley (Mr Howarth). We are involved in a process of making subjective judgments about who goes where to fight for what, and for whom. My right hon. Friend made the point that if somebody goes to fight for ISIS in Syria—I wish they would not; I have no truck whatever with ISIS—they will be deemed to be a terrorist and a dangerous person. If they go to fight for the Syrian Government, I presume the same point applies, but if they fight for the free Syrian army, which is supported by the Americans and the British, and they do things as despicable as they would in any other force, are they then deemed to be all right? Do they then have to prove which particular force they joined in Syria's three-way civil war?

There is a further complication. If someone enters Syria from Turkey to fight with the Kurdish forces, having been taken there by the PKK, which is a listed terrorist organisation in Turkey, they would nevertheless be on the side of the Kurdish forces against the forces of the Syrian Government and against ISIS. There are an awful lot of contradictions surrounding how we decide who is a good fighter and who is a terrorist; who is struggling for liberation and who is a terrorist. There was a time when people involved in Umkhonto we Sizwe in South Africa were known as terrorists; they were later welcomed to this country as freedom fighters. Things can turn full circle.

None of what I am saying is intended to give any succour, comfort or support to ISIS, but I feel that we should think about this rather more carefully and avoid the knee-jerk reaction of saying, "These are bad fighters and those are good fighters, so we will ban these and allow those in."

9.30 pm

Mr George Howarth: My hon. Friend has already answered the question that I was going to ask, but I will make my point anyway. I am sure he agrees that there is no comparison between the barbaric acts that are being committed by members of ISIS and what was done by the freedom fighters in South Africa.

Jeremy Corbyn: Of course that is true. I have no truck with those who commit those barbaric acts, and nor does any other Member.

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Our job is to scrutinise legislation, and that is exactly what we are doing tonight. We can vote to change some of the amendments tonight, or we can return to the issues on Report. However, I hope the Home Secretary understands that a great many of us are deeply concerned about the principle of dealing with British nationals in this way, as we would be in relation to any other country. We are concerned about the long-term consequences: about what such treatment does to those people, and about the increased radicalisation of others. My hon. Friend the Member for Hayes and Harlington (John McDonnell) talked about that.

I have encountered young people who have been attracted to what ISIS is doing. They say that what the west did in Iraq and Afghanistan was appalling, and was questionably legal in the case of Afghanistan and definitely illegal in the case of Iraq. We are living with the consequences of the war on terror of 2001, and if we continue

to try to create legal obstacles and make value judgments about people without considering the overall policy we are following, we will return to legislation such as this again and again, year after year.

Steve Baker (Wycombe) (Con): That is a humbling thing. It is, however, a lamentable fact that my constituent Omar Hussain appeared on the BBC to express considerable support for ISIS. Does the hon. Gentleman accept that such people need to be subject to special measures when they return to the United Kingdom?

Jeremy Corbyn: I have no support for ISIS whatsoever, and obviously that should apply to someone who has committed crimes, but we should bear in mind that expressing a political point of view is not in itself an offence. The commission of a criminal act is clearly a different matter, but expressing a point of view, even an unpalatable one, is sometimes quite important in a democracy. We should be slightly cautious about announcing that we will start to deal with people on the basis of a general view that they have expressed. We should think seriously about where our foreign policy has brought us, and what our legislative position now is.

Steve Baker: I am very much inclined to agree with what the hon. Gentleman is saying, but the problem is that this particular individual expressed support for beheadings with a knife. I feel that the practical realities mean that we must take special measures in the case of such people.

Jeremy Corbyn: I would want that person to have some kind of treatment, or I would want measures of some kind to be taken, but expressing support for something and doing it are two rather different things.

There are very unpleasant parallels in the British colonial past. I sat through the hearings in the High Court when the Mau Mau people were seeking compensation. The way in which they had been treated by the British Army in Kenya in 1955 was disgusting and disgraceful beyond belief. We are now going through a horrible, vile period in Syria. We must understand where we have come from and how we will get through this period without denying our own civil liberties and encouraging more people to join in this whole ghastly process.

Mrs May: This has been a constructive and well-informed debate. Some Members have raised practical questions and others have raised questions of principle, but it was

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the right hon. Member for Holborn and St Pancras (Frank Dobson) who brought home to us why we must look at the issue of our terrorism legislation when he explained that his own constituency had been affected by not the theory but the actuality of terrorism, and that people had lost their lives as a result. So this is not an academic discussion; we are talking about a real threat to this country, and we need to do everything we can to combat that.

The hon. Member for Islington North (Jeremy Corbyn) and my right hon. Friend the Member for Haltemprice and Howden (Mr Davis) talked about the balance between civil liberties and national security. I have always taken the view that without our security we cannot enjoy our civil liberties, but I would simply point out that this Government reviewed counter-terrorism legislation when we came in and took a number of steps such as reducing the period of pre-charge detention from 28 to 14 days, so we have been very conscious throughout of the need always to be aware of the freedoms we hold dear and the desire to ensure we can maintain them.

I am grateful for the constructive tone adopted by most of those who spoke in the debate. There will of course be discussion of the details and consideration of how best to achieve our desired objective, but many of those who spoke recognised the legitimate aim of what the Government are doing. It is perfectly legitimate to try to ensure we can manage the return to this country of those who may pose a threat to the people of the UK.

The right hon. Member for Knowsley (Mr Howarth) talked about the complexity of the situation we are dealing with, particularly in relation to Syria and Iraq. People going out there, sometimes with the best of intentions, may find themselves being radicalised. People may go out to fight or work with one particular group but get caught up in fighting with other, more extreme terrorist organisations. So it is a very complex picture; I understand that.

The right hon. Gentleman raised the question of whether people would be looked at in categories, and described a number of categories. As I have said, individuals will be considered on a case-by-case basis. Whether they meet the criteria set out in the Bill will be considered, and that will include looking at them in much the way he described, and putting in place the appropriate measures in relation to particular individuals. Of course, such considerations will be made in consultation with operational partners, notably the security services and the police, but that this will be done on a case-by-case basis is a very important element that people should remember.

Mr George Howarth: My point in illustrating those categories is that the hope is that the conditions attached to the return would point individuals in the direction of prevention or some form of surveillance, as the hon. Member for Brighton, Pavilion (Caroline Lucas) accepted might be necessary. I was interested in those two things coming together.

Mrs May: I understand the point the right hon. Gentleman was making, and the intention is indeed that that will be done on a case-by-case basis—both the question whether there should be a TEO, and how that

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individual would be managed on their return to the United Kingdom. For some, it would be appropriate to look at further action when they return to the UK—for example, it could be right to put someone on a TPIM—or it might be appropriate for them to be put in the direction of some form of programme that helps to de-radicalise them. The right hon. Member for Holborn and St Pancras raised the issue of potential prosecution, too, and it may be that there is evidence and it is appropriate to prosecute somebody when they return. So we are talking about this being done on a case-by-case basis. I know that is a well-used phrase, but that is genuinely intended to operate in this instance.

I hope that answers the point the hon. Member for Brighton, Pavilion (Caroline Lucas) made in referring to her two constituents who had died in Syria. Of course we think of the father she quoted, who has seen his sons die in those circumstances. Again, I assure her that we would decide whether to impose a TEO on a case-by-case basis. As I have said, people will go out to Syria for a whole variety of reasons, some of them believing they are going for humanitarian purposes.

The Government have given a clear message to everyone: if you are thinking of going out to Syria for humanitarian purposes, don't go. There are better ways of helping the people of Syria than going out there and potentially getting caught up in the fighting and losing your life.

I welcome the constructive approach adopted by the right hon. Member for Delyn (Mr Hanson), who led for the official Opposition, and by my right hon. and learned Friend the Member for Beaconsfield (Mr Grieve). I want to respond to some of the points that they and others have raised. A number of Members spoke as though the Opposition's notification and managed return proposals were an alternative to the Government's proposals, but I think the right hon. Member for Delyn made it clear that they were in addition to our proposals. The hon. Member for Hayes and Harlington (John McDonnell) asked what would constitute a reasonable excuse. In fact, that would ultimately be for the courts to decide. A reasonable excuse could involve circumstances in which an individual had inadvertently breached the terms of their permit to return to the UK for practical reasons—for example, when their plane had been diverted.

Frank Dobson: If a person who had been made the subject of an order that had been deemed to have been served came to this country without knowing that it had been served, would they have committed an offence?

Mrs May: I was about to come on to the issue of serving the order. It is set out in the Bill that the fact that someone does not know that an order has been served is not necessarily a sufficient excuse, but that is a matter that would be tested in the courts. They would be looking at the action that was to be taken in relation to a breach, and it would be for them to determine what a reasonable excuse would be. An order would be served in person whenever possible, but when that was not possible, we would seek to ensure that an individual was made aware of the order through other mechanisms. We might, for example, seek to serve it at the individual's last

known address or serve the order to file. As I said earlier, similar systems work effectively in other contexts, such as informing foreign nationals about decisions on their immigration status.

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Frank Dobson: This reminds me of one of my constituents. He went to Somalia and then went to Djibouti, where he was arrested and handed over to the Americans. When he said he was a British citizen, he was told, "No, you're not. The Home Secretary has taken your citizenship away." He was unaware of that fact, but I gather that the order was deemed to have been served on him in Somalia because it had been sent to his mother's address in Islington.

Mrs May: As I have said, when it is impossible to serve an order on an individual in person, it is standard practice to make every attempt to serve it in a way that ensures the information gets to them. Using their last known address is one way in which such decisions are served.

John McDonnell: Can we be clear on this point? Clause 9(4) states that when a relevant notice

"has not actually been given to an individual, the fact that the relevant notice is deemed to have been given to the individual…does not…prevent the individual from showing that lack of knowledge of the temporary exclusion order…was a reasonable excuse".

To be frank, that will not be strong enough in many cases.

Mrs May: I am grateful to the hon. Gentleman for his intervention, but as I have just said to the right hon. Member for Holborn and St Pancras, the point is that what is a reasonable excuse will be tested in the courts. I did not quote the exact words but I cited the spirit of the point in clause 9(4). As I say, that matter would be tested by the courts and it would be for them to determine whether or not what the hon. Gentleman describes constituted a reasonable excuse.

9.45 pm

Let me deal with two specific points about the Opposition proposals, the first of which relates to the process of information going to carriers for the notification and managed return order. The proposal works only because the full name and birth details of individuals are disclosed to all carriers. The existence of that list and any failure by any carrier to protect that data could expose a number of individuals to mistreatment, and we must not forget that some countries' national airlines are state owned and operated. This goes to the point I made when I intervened on the right hon. Member for Delyn: there is a real difference between saying that the Government hold all the information, obtain it from the carriers through advance passenger information about individuals, carry out the matching, determine whether there is an individual for whom authority to carry should not be given and then give that information on that individual to the carrier, and the Opposition's proposal, whereby information on a large number of individuals should be given to all carriers on the off chance that one of those individuals will attempt to travel with one of those carriers.

That difference is important, and as I indicated in earlier remarks, what we have found in dealing with carriers is that they feel, as the Government do, that the responsibility for getting that matching process right in determining whether authority to carry should be given for an individual should rest with the Government. On requiring that notification from the carriers, the information

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as to who is being carried is already provided by carriers when they submit advance passenger information to the Government's border system. But, as I say, it is then for the Government to determine whether one of those individuals is somebody against whom action should be taken through not providing the authority to carry.

As part of the TEO, the individual's passport will have been cancelled, which makes it much more difficult for them to travel through other countries. That point was made by a number of Members, including my right hon. and learned Friend the Member for Beaconsfield. He, like a number of other hon. Members, mentioned the other issue I wish to deal with: whether or not the decision to impose a TEO should be for the courts or for the Secretary of State. Comparisons were made with TPIMs, where we have that judicial process in place, but even in that process the initial decision is taken by the Secretary of State. Arguments have been made in the past that the decision should be given over entirely to the courts, but I have been clear that it is important that such decisions, where we are imposing restrictions on an individual, are being taken by someone who is democratically elected and therefore accountable to the electorate—to the people—for them.

As for whether or not there should then be a separate automatic court process in relation to the imposition of a TEO, this is about the operation of a royal prerogative in terms of the cancellation of a passport, and that operation currently does not have that judicial process inserted within it—the decision is taken by the Secretary of State. That is the first point to make. The second point is that the TPIMs have far more restrictions that can be imposed on an individual than would be imposed simply by the TEO. A number of hon. Members referred to the TEO in terms of taking away the right of abode for somebody in the UK, and I intervened on the hon. Member for Brighton, Pavilion in respect of her use of the term "exile". This is not about saying to somebody that they are for ever exiled from the United Kingdom and cannot return. This is about not stopping somebody's right of abode in the United Kingdom, but saying to an individual about whom there is concern that they have been involved in terrorism-related activity outside the UK that when they return they will do so on the basis of a process that the Government have put in place such that their return can be managed.

Mr Winnick: What makes some of us uneasy about temporary exclusion orders—I was certainly uneasy about them from the very beginning—is that excessive powers are being given without the individual having legal redress. I hope that one does not have to say that one is against terrorism and loathes every form of criminality, when we see what is happening with terrorism and what is happening in Australia. That does not alter the fact that these powers should be subject to some form of legal redress, and it is unfortunate that they will not be.

Mrs May: They are subject to a form of legal redress; it is called judicial review. The debate has not been about whether there is some form of legal redress available to individuals but about whether there should be an automatic court process after a decision has been made by the Secretary of State.

Mr Winnick *rose—*

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Mrs May: The hon. Gentleman is welcome to intervene again.

Mr Winnick: The judicial process comes afterwards, and it can be very complex for the individual concerned. What I am saying is that if the Secretary of State is going to take powers such as temporary exclusion orders, those powers should be subject to a court order, and the arguments should be put in court. There may be some obvious restrictions for reasons that have been stated, but at least they are all part of living under the rule of law.

Mrs May: I remind the hon. Gentleman that the power to remove a passport from an individual—the royal prerogative power—is not subject to an automatic court process. This is more akin to that royal prerogative exercise in the removal of a passport than it is to the imposition of the sort of measures that can be within the terrorism prevention and investigation measures.

Jeremy Corbyn: Let us be clear: a judicial review is not an appeal; it is an examination of process. It is no more and no less than that. To call it a judicial oversight is really not correct.

Mrs May: The point is that there is a process in which the courts consider whether the decision by the Secretary of State to exercise the temporary exclusion order was reasonable. Let me come back to the point made by the hon. Member for Walsall North (Mr Winnick). If we look at the difference between a royal prerogative power and the terrorism prevention and investigation measures, the restriction on an individual that can be imposed

through a TPIM is far greater than that imposed through the exercise of the royal prerogative power. This power of the temporary exclusion order is more akin to the royal prerogative power, which is why I believe that the proposals in the Bill are appropriate for the sort of measure that we are putting in place.

As the Bill goes through its various stages in this House and the other place, there will be further discussion on the issues that have been raised by hon. Members today. What we are proposing is a new power, but it is both necessary and proportionate. As I have said before, it will not render anyone stateless. It will ensure that those who have been fighting abroad and who want to come back to the United Kingdom do so in a managed way and on our terms, and it is compliant with all our domestic and international legal obligations. I invite all those who have tabled amendments to withdraw them, and the Committee to agree that clauses 2 to 11 should stand part of the Bill.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clauses 3 to 11 ordered to stand part of the Bill.

To report progress and ask leave to sit again.—*(Mel Stride.)*

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The Deputy Speaker resumed the Chair.

Progress reported; Committee to sit again tomorrow.

Business without Debate

DELEGATED LEGISLATION

Madam Deputy Speaker (Dame Dawn Primarolo): With the leave of the House, we shall take motions 4 to 7 together.

Motion made, and Question put forthwith (Standing Order No. 118(6)),

Constitutional Law

That the draft Scotland Act 1988 (River Tweed) Amendment Order 2015, which was laid before this House on 20 October, be approved.

Public Procurement

That the draft Single Source Contract Regulations 2014, which were laid before this House on 29 October, be approved.

Water Industry

That the draft Water Industry (Specified Infrastructure Projects) (English Undertakers) (Amendment) Regulations 2014, which were laid before this House on 11 November, be approved.

Financial Services and Markets

That the draft Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) (Amendment) Order 2014, which was laid before this House on 18 November, be approved.—*(Mel Stride.)*

Question agreed to.

PETITION

Access to Co-operative Ground (Scunthorpe)

9.55 pm

Nic Dakin (Scunthorpe) (Lab): In presenting this petition, I would like to praise the excellent work of the Friends of Scunthorpe Fields and Open Spaces, particularly Chris Jury, Rick Loudon and Stuart Green, in campaigning to secure continued free access to Scunthorpe's Co-operative ground and getting more than 1,500 people to show their concern by signing the petition. I would also like to welcome North Lincolnshire council's recent willingness to recognise the strength of feeling on the matter.

The petition states:

The Petition of residents of Scunthorpe County Constituency,

Declares their objection to North Lincolnshire Council's decision to deny the general public access to the old Co-operative Ground adjacent to Central Park in Scunthorpe by erecting a fence around the perimeter.

The Petitioners therefore request that the House of Commons urges the Government to encourage North Lincolnshire Council to remove the fencing erected around the old Co-operative Ground adjacent to Central Park and allow free public access to the area.

And the Petitioners remain, etc.

[P001412]

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Housing Development (North Somerset)

Motion made, and Question proposed, That this House do now adjourn.—*(Mel Stride.)*

Madam Deputy Speaker (Dame Dawn Primarolo): Dr Fox, I remind you that at 10 o'clock I will have to move the motion again. I am just warning you so that as you are warming up in your speech you appreciate what is going on.

9.57 pm

Dr Liam Fox (North Somerset) (Con): I am grateful for your advice, Madam Deputy Speaker. Never having warmed up in less than two minutes, that should be something of a challenge.

I am grateful for the opportunity to debate—a little earlier than expected tonight—what has increasingly become a total fiasco around housing needs in North Somerset. Let me begin by describing how we got to today's absurd situation. As a result of the election of the coalition Government in 2010, greater decision making powers were returned to local councils, so North Somerset council was able to provide a revised regional spatial strategy that reflected local needs, infrastructure and objectives, which had a total target of 14,000 houses by 2026. That was a dramatic reduction on the previous regional spatial strategy target of 26,750, which was abandoned after the 2010 election and the defeat of the Labour Government.

North Somerset's core strategy was put before the planning inspector for public examination at the end of 2011. The inspector determined that the plan was sound and it was adopted in April 2012. However, the plan was subsequently challenged in the courts by the university of Bristol, which wants to build on green-belt land in my constituency. That is, in my view, an appalling testament to how much it values its own coffers and how little it values the local environment.

In the High Court, the judge ruled that the Government inspector had failed to provide proper reasons in his report to support his conclusion that North Somerset's 14,000 housing target was appropriate. Let me be clear—this was a failure on the part of the inspector, not of North Somerset. Had the inspector given adequate reasoning, North Somerset would now be required only to provide 14,000 houses.

10 pm

Motion lapsed (Standing Order No. 9(3)).

Motion made, and Question proposed, That this House do now adjourn.*—(Mel Stride.)*

Dr Fox: At this point in the story, we expected that there would be merely a re-examination process where the inspector would provide more detailed reasons for the support of North Somerset's core strategy. Unfortunately, the judgment did not provide a remit for the re-examination process. As a consequence of the inspector's error, North Somerset council had to submit the key parts of its plan, which had been remitted, for re-examination. Of course, by this time the context had changed significantly with the publication of the national planning policy framework in March 2012. The stated objective of Government was now to

"boost significantly the supply of housing"

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and to ensure that the plans met the

"full, objectively assessed needs for market and affordable housing in the housing market area".

There was, however, one overwhelming problem in the context of North Somerset. Planning on housing numbers, and perceived need, had been done in conjunction with the local authorities in Bristol, Bath and North East Somerset and South Gloucestershire. The other three authorities had their plans accepted in full, which meant that only North Somerset would have to have its numbers reconsidered in line with the 2012 NPPF assumptions. Bizarrely, we are now being asked to meet what is termed "Bristol's unmet need"—something that you, Madam Deputy Speaker, will understand from your own constituency interest—although the adopted Bristol city plan did not identify such a need.

So what are the implications of all this? First, we have found ourselves with a new inspector who has told our elected council that even an increased number of 17,000 houses is too small, and that 20,000 would be a starting point for discussion. It is clear that the number is rising back towards the 26,000 target that was in the RSS specifically abolished by the Government. It seems that the bureaucrats always get their way, whatever local or nationally elected politicians want in the names of those who cast their ballots.

Secondly, despite the fact that the error came from the planning inspector and not from the council, it is the council tax payers of North Somerset who have had to carry the burden in legal and other costs of well over £100,000 so far. Why on earth is this not being carried by the Planning Inspectorate, which is where the mistake occurred, and therefore by central Government funding?

Thirdly, and most importantly, the problem caused by the original Government inspector's error is being compounded, as the delay to the adoption of the core strategy is holding up progress on the detailed allocation of sites for new housing, and creating uncertainty over the council's five-year land supply. This means that local villages around North Somerset are being subjected to developers attempting to grab large greenfield housing

sites in the hope of being able to receive planning permission on appeal. Villages such as Yatton, Claverham and Backwell in my constituency, and Congresbury and Churchill in the constituency of my hon. Friend the Member for Weston-super-Mare (John Penrose) are under attack from speculative development. That is clearly at odds with, and undermines, the Government's objective of a plan-led system.

As my hon. Friend the Minister can see from the maps I have supplied, North Somerset is not able to accommodate the scale of housing without encroaching into flood zones, green belt, sites of special scientific interest or areas of outstanding natural beauty. I hope that my right hon. Friend the Secretary of State will assist us in defending those hugely sensitive areas. Even a housing target of almost 21,000 dwellings—50% more than had originally been determined to be necessary—will put enormous pressure on those lying outside the green belt. The infrastructure in villages such as Yatton, where the GP surgery and the local primary school are already full, is utterly unsuitable for that level of growth. More of the housing needs of Bristol need to be met in the city through redevelopment of brownfield sites, as is accepted by all the authorities in the sub-region. Indeed, North Somerset council has worked hard to secure the

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south Bristol link road, which will open up access to south Bristol and facilitate regeneration there—the type of regeneration we all need.

So what do we want? We have already worked hard with Bristol city council, South Gloucestershire council and Bath and North East Somerset council on their longer-term strategic housing needs as we start to work together towards our strategic housing market assessment for the period to 2036. It seems utterly ludicrous to be asked, in effect, to work out a largely arbitrary housing allocation while preparing that plan. The most logical thing would be to put back in place the North Somerset core strategy originally agreed by the Government inspector while we assess, with our three partner authorities, the wider developmental needs of the region.

The Government must give these commitments: they must underline the importance of the plan-led system, ensure that the Planning Inspectorate withstands the pressures from developers, and allow democratically elected councils to get their locally prepared plans in place.

Chris Skidmore (Kingswood) (Con): I thank my right hon. Friend for calling this extremely important debate. Large areas of the land he is talking about are green-belt land. Just as people in south Gloucestershire and Kingswood have happily protected the green belt, it must be up to local residents to decide whether they wish for building on the green belt; they should not have some kind of mission creep from Bristol. Does he agree that the plans set out by Labour in the Lyons review that would allow Bristol to expand into areas of North Somerset and south Gloucestershire are completely unacceptable, and that we must preserve and protect the green belt wherever possible?

Dr Fox: I am grateful to my hon. Friend for his support, as I am for that of my hon. Friends the Members for North East Somerset (Jacob Rees-Mogg) and for Weston-super-Mare.

I think we all speak with one voice when we say that the Government must tonight reiterate that green-belt protection will not be weakened and that the Bristol green belt will be retained in its entirety to defend the adjacent North Somerset countryside from development. Additionally, it must be made clear that greenfield development should come only as a last resort after all brownfield sites are exhausted. Finally, the infrastructure that is needed to support new development, including schools, GP surgeries and, where appropriate, roads must be provided by the developers; the cost must not fall disproportionately on local council tax payers.

In North Somerset we are facing an expensive fiasco that is undemocratic and producing unsustainable outcomes. We have been very patient, and our very competent council has been extremely co-operative. Now we need answers.

10.8 pm

The Minister of State, Department for Communities and Local Government (Brandon Lewis): I thank my right hon. Friend the Member for North Somerset (Dr Fox) for securing this debate and for his staunch

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advocacy of the views of his constituents and of North Somerset council. I know that my hon. Friend the Member for Weston-super-Mare (John Penrose) has made similar representations.

I regret that as a result of a legal challenge by Bristol university, elements of North Somerset council's plan have had to be re-examined. I understand that this legal action successfully challenged the methodology for calculating existing housing need in North Somerset. The issue will have been thoroughly considered by North Somerset council and at the re-examination. The challenge was partially successful. The judge's decision handed down on 14 February 2013 said that the inspector, in appraising the council's housing requirement figure as 14,000, failed to give "adequate or intelligible reasons" for his conclusion that the figure made sufficient allowance for latent demand—that is, demand unrelated to the creation of new jobs.

Although the judgment found shortcomings with the inspector's approach, the housing calculation methodology, which ultimately led to the plan being thwarted, was proposed by North Somerset council. I welcome the fact that the re-examination of elements of the North Somerset local plan appears to be nearing its final stages, but I recognise that my right hon. Friend the Member for North Somerset, many of his constituents and others have concerns about the approach to housing need coming through the re-examination process.

My right hon. Friend will appreciate that my ministerial role means that I cannot comment on the approach proposed by the North Somerset local plan, as it is currently at examination. However, I hope that some of the points I am going to make on the issues to which his specific concerns relate will none the less be useful in putting the matter in context and give some surety and confidence.

As my right hon. Friend said, he has previously raised concerns directly with the Planning Inspectorate about its handling of the initial examination of the plan. Again, propriety prevents me from commenting on the conduct of independent inspectors, but in general terms their role is to ensure that plans are consistent with national policy and sound in other respects, and they cannot propose amendments to plans other than where asked by the relevant council.

For many years we have failed as a nation to deliver sufficient housing to meet growing demand. That is why our policy rightly asks that authorities plan to meet objectively assessed development needs in a way that is consistent with national policy as a whole. Localism means a choice over how the needs of communities are best met, not whether they are met.

I will return in a moment to the balance between enabling sustainable housing and conserving the natural and historic environment, as it is of central importance to planning nationally and in North Somerset.

Dr Fox: Before my hon. Friend moves on from the liability of the Planning Inspectorate and its role in this mess, I simply ask, for the sake of natural justice, how it can possibly be defensible that a mistake made not by the local authority, but by the Government inspector, can lead to the local authority and the local council taxpayers carrying the financial liability rather than the person and the funding source from where the mistake emanated?

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Brandon Lewis: My right hon. Friend rightly makes the case on behalf of his local authority and I appreciate the points he makes. As I understand it, the core issue behind the judge's decision related to the way in which the housing assessment was done. That is a matter for the local authority, but I will look into the specifics of what happened with the Planning Inspectorate. I will touch on that later, but perhaps I could also arrange to meet my right hon. Friend to discuss the issue.

Housing pressures are felt as equally, possibly more acutely, in the west of England as they are elsewhere in the country. National housing data indicate high demand for homes in North Somerset. I am also aware that affordability is more acute in North Somerset than in many other parts of the country. The evidence of North Somerset council itself suggests housing need of close to 26,000 homes, and the regional spatial strategy noted a figure of 26,750. Both figures are some 6,000 above those that the council is currently considering in its examination.

Dr Fox: I apologise, but that is simply not accurate. The figure of 26,000 was in the regional spatial strategy that we were elected to abolish, and we did abolish it. Those numbers were not drawn up in terms of local need in North Somerset. They were drawn up by bureaucracy, which seems to be getting its way by the back door. Neither the local authority nor central Government, who abolished the strategy, wanted those numbers, but they keep coming back. Why is that? Is democracy meaningless in this process?

Brandon Lewis: The figure in the regional spatial strategy was 26,750. The supporting evidence provided by North Somerset council indicates that its housing need may be as high as 25,950. Those are the figures it is working on. Obviously, this is a two-stage process and the second stage will focus on what the council can deliver within environmental constraints. I will return in a moment to the point raised by my right hon. Friend, but the council is looking at what it can deliver and I believe the figure it is currently considering is more like 20,000.

Our policy asks that authorities plan for their areas on the basis of the appropriate evidence, including preparing a strategic housing market assessment to identify the scale and mix of housing likely to be needed over the plan period. That evidence should inform local plans to establish an aspirational but deliverable vision for the homes, jobs and infrastructure that are needed in areas. I stress that there are three parts to that.

I know that my right hon. Friend and his constituents rightly place a high value on the environment in North Somerset, much of which is of exceptional quality. Let me make it absolutely clear that, as our planning guidance sets out and as we re-established in guidance just this summer, establishing development needs is only the first part of the plan-making process and should be unconstrained by policy restrictions.

Once an authority has objectively assessed needs it is then important to look closely at constraints, whether they are related to the environment, landscape, or infrastructure provision, to determine what level of development it is appropriate to provide and where. Policy is absolutely clear that need does not automatically equal supply and there are strong protections in place to

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guard against inappropriate development. Let me stress some of the examples to give confidence to my right hon. and hon. Friends. Those protections cover the green belt, areas of outstanding natural beauty and areas vulnerable to flooding, even in the absence of a local plan. I know from the maps I have seen that those are all areas that are important in Somerset, and particularly in North Somerset.

Our guidance, published in March 2014, sets out specifically that local plans should be

“realistic about what can be achieved and when”,

including in relation to the constraints that infrastructure might put on delivery. Similarly, guidance published in October of this year sets out the Government’s view that unmet housing need is unlikely to outweigh the harm to the green belt and other harm to an extent that constitutes the “very special circumstances” required to grant permission for inappropriate development in the green belt. We made it clear in the guidance that the presence of constraints, such as the green belt, might limit the ability of an authority to meet its need. That is an entirely legitimate evidence base.

Leaving aside the protections in national policy that always apply, we are all agreed on the importance of getting plans in place as they set the framework in which decisions are taken locally, and we have returned power in

plan making to the local level wherever possible. As my right hon. Friend outlined, we revoked the unpopular regional strategies. We have enabled communities to introduce neighbourhood plans and have reformed local plan making so that inspectors may propose modifications to a plan only if invited to do so by the council.

Of course, much of North Somerset's local plan, including on protections for sensitive areas, has been in place since April 2012. I also want to be clear that, as set out in the national planning policy framework, emerging plans may start to carry weight in decision taking before they are formally adopted. I would take the opportunity to welcome recent progress in the wider west of England towards getting local plans in place. In particular, Bath and North East Somerset council adopted its plan on 10 July, and Mendip district council's plan was found sound on 2 October. Alongside already adopted plans in other areas, that recent progress has put authorities and communities on the front foot in determining what is appropriate and where.

In general, we have recently seen a substantial uplift in plan making. Now 80% of authorities have published a local plan compared with 32% back in 2010 and 60% of councils now have adopted local plans compared with just 17% when the Government came to power. Neighbourhood planning, introduced in the Localism Act 2011, also gives communities real power to bring forward their vision for the sustainable development of their areas and has been eagerly taken up by communities.

More than 1,200 communities across the country, covering more than 5 million people, are now developing neighbourhood plans. I welcome the fact that there are four such groups of which we are aware at various stages of the process in North Somerset. I understand that Backwell parish council's neighbourhood plan has passed examination, Long Ashton parish council's work is subject to planning consultation and Winscombe and Sandford parish council has applied for its proposed

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area to be designated as a neighbourhood plan area. I would very much encourage those organisations to progress with their plan-making work.

We recognise that legal challenge can in some cases unnecessarily delay planning. That is why we have introduced a raft of reforms to ensure efficiency in the legal handling of planning matters to complement our wider reforms improving the efficiency and speed of the system. The reforms include reducing the window in which claims for judicial review can be made against planning decisions, introducing a permission stage into the statutory review of plan making to weed out unmeritorious challenges at an early stage and establishing a specialist planning court within the High Court to speed up the determination of challenges to planning and infrastructure schemes.

I encourage all Members to focus on the positive progress that has been made recently in respect of North Somerset's local plan at examination and to look towards getting plans in place. I appreciate that my right hon. Friend the Member for North Somerset and my hon. Friend the Member for Weston-super-Mare have issues with how we got to where we are.

Dr Fox: I am extremely grateful to my hon. Friend for giving way. I am conscious that my hon. Friend the Member for Weston-super-Mare, as a member of the Government Whips Office, is unable to make his voice heard, so perhaps I may speak for both of us. We seem

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to be in a ridiculous position. The plan was put forward in 2011, agreed by the inspector and adopted in 2012, yet here we are at the end of 2014. If I am not mistaken, at the end of 2015, we will begin the planning period in which we will look at housing allocation through to 2036. It would be the height of absurdity if we were one of only four councils in the sub-region to be asked not only to look at our 2026 housing allocation, but to start the process all over again at the end of next year and look at the 2036 allocation. Surely this is a complete waste of public resources, as well as being utterly contrary to what my hon. Friend the Minister says is the Government's aim, which is to encourage greater localism.

Brandon Lewis: My right hon. Friend is absolutely right that we want to encourage localism. That is why we want the decisions to be made locally. I appreciate the frustration that the legal process has brought into this case. I know that he appreciates that I am limited in what I can say about any specific case, particularly while it is going through examination. However, I am happy to discuss this issue with my right hon. and hon. Friends in greater detail at an appropriate point and to write to them to outline the detail behind their queries, particularly in respect of the Planning Inspectorate and the legal situation, so that I cover any issues that I have been unable to address this evening.

Question put and agreed to.

10.21 pm

House adjourned.

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