



HOUSES OF PARLIAMENT

Joint Committee on Human Rights

Oral evidence: [Legislative Scrutiny: Nationality and Borders Bill](#), HC 588

Wednesday 1 December 2021

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Members present: Ms Harriet Harman MP (Chair); Lord Brabazon of Tara; Joanna Cherry MP; Lord Dubs; Florence Eshalomi MP; Lord Henley; Baroness Ludford; Angela Richardson MP; Dean Russell MP; David Simmonds MP; Lord Singh of Wimbledon.

Questions 36 - 54

Witnesses

[I](#): Tom Pursglove MP, Parliamentary Under-Secretary of State, Home Office; Dan Hobbs, Director, Asylum, Protection and Enforcement, Home Office; Dan O'Mahoney, Clandestine Channel Threat Commander, Home Office.

Examination of witnesses

Tom Pursglove MP, Dan Hobbs and Dan O'Mahoney.

Q36 **Chair:** This is the fourth and final evidence session of the Joint Committee on Human Rights inquiry into the Nationality and Borders Bill. We are the Joint Committee on Human Rights; half our members are from the House of Lords and half from the House of Commons. We are meeting today partly in person and partly remotely. Our concern, as our name suggests, is human rights. We have a specific responsibility to scrutinise government Bills brought forward and to report to the House of Commons on their implications for human rights and whether they are in compliance with our human rights obligations.

We have been looking at the Nationality and Borders Bill. Earlier last month we published our first report, which looked at the nationality Clauses in Part 1 of the Bill. Our second report, which was published this morning, considered the immigration offences and enforcement clauses in Part 3 of the Bill.

We are very grateful, and it is very timely, that we are hearing evidence today from Tom Pursglove MP, Parliamentary Under-Secretary of State at the Home Office and Ministry of Justice, who has responsibility for immigration policy. Giving evidence alongside the Minister, we are very grateful that we have Dan Hobbs, the director of asylum, protection and enforcement at the Home Office—welcome to you—and Dan O'Mahoney, the Clandestine Channel Threat Commander.

Normally we hear evidence from officials, agencies and the Minister, and then do our report. But the Government decided that you did not want to come before us before this point, so we have already issued our report and tabled some amendments. We have the opportunity to hear your views on the amendments we have tabled, if you are able. That will be particularly important, because the Bill will complete its remaining stages in the House of Commons—Report and Third Reading—next week on Tuesday and Wednesday, 7 and 8 December.

Today, as we take evidence, we are in the shadow of tragedy. At least 27 people died last Wednesday in the worst recorded migrant tragedy in the channel. Among the dead were 17 men, seven women and three children. Reports are that one of the women was pregnant, while one of the children was just a little girl. Many of the dead appear to have been Kurds from Iraq and Iran, some may have been Arabs and Afghans, as well as other Iranians. I think we all—the Minister, officials, ourselves—have those people in our thoughts.

With that, I would like to start my first question to the Minister. Do the Government feel any sense of responsibility for the tragic deaths of these 27 people in the channel last week? You said that you always feared this would happen. Do you therefore feel any responsibility, or is it nothing to do with you?

Tom Pursglove: Thank you, Madam Chair, I am very grateful for the opportunity to address the committee this afternoon. This is an important scrutiny session in relation to the Bill, and it is fair to say that having come into the role—I think it was 10 weeks ago—it has been very busy since with line-by-line consideration over three weeks, the evidence sessions immediately following my appointment, two lots of Home Office questions, Justice questions, the Home Affairs Select Committee and now with you.

Chair: Can I just ask you to crack on with the answer? I have been a Minister, and it is hard work but a great privilege, so I am sure you are getting on with your duties. Can you just answer my point about what sense of responsibility you feel?

Tom Pursglove: I just wanted to thank you for the invitation and the opportunity. I feel a huge weight of responsibility as the Minister for tackling illegal migration. All of us in this House feel an enormous weight of responsibility on this issue, and there is a profound duty to put out of business once and for all the evil criminal gangs that are responsible for this human misery, that treat individuals as cargo, and are interested only in making a profit, and to render this route unviable. All the work that I am doing is aimed in that direction and is working towards that outcome. What we saw last week is a dreadful tragedy. It is unthinkable. The thought that women, children and men lost their lives in this way is horrendous. For me, that only stiffens my resolve to work as hard as I possibly can to play my part to render the route unviable, with the ultimate objective in my mind of preserving life.

Q37 **Chair:** One aspect of this, as you have said, is clamping down on the traffickers, the people smugglers. The other is the issue of safe legal routes. What work have you been doing on that dimension, not just stopping the dangerous routes but helping by providing more safe and legal routes. We have heard evidence, which we have reported as part of our inquiry, that there is complete inadequacy there, like for some of those who drowned last week, and that there are not safe and legal routes. What work are you doing on that?

Tom Pursglove: Safe and legal routes are absolutely fundamental to the policy. As Ministers, we have been consistently clear about that. Of course it is absolutely right that we keep under constant review the appropriateness of the schemes that we have in place. It is worth remembering that over the summer we evacuated 15,000 people from Afghanistan. We have completed the commitment in relation to the Syrian scheme. There is obviously the global resettlement scheme that is now in place and that is a very significant part of our safe and legal offer.

I would also say, because this is important in the context of this debate, that I campaigned to leave the European Union in the referendum and people took perfectly respectable positions in that referendum. One of the principal reasons for me was that I wanted a fair immigration system that treats people equally, regardless of where they come from in the world. I would argue that ending free movement and having a global immigration

system is relevant in this context, because it is skills-based and it means that there is a wider opportunity than there was perhaps before for people from around the world to come to this country. Previously our immigration policy was undoubtedly geared in the direction of the European Union by virtue of our membership. I think that is relevant in the context of this debate, too.

To directly answer your question, from my perspective safe and legal routes are absolutely crucial. The work that we have done with the UNHCR in particular in the past has been invaluable and has been world leading in taking some of the most vulnerable people on the face of the planet directly from the regions of conflict and strife, relocating them to our country and providing a better quality of life and sanctuary from harm. That has been massively important, and something that we continue to be very mindful of. It is not directly within my ministerial responsibilities. It sits with the Minister for safe and legal migration, but it is something that we regularly talk about because it is directly relevant to the policy that I am seeking to advance through the Bill.

Chair: There were reports that those on board that tragic vessel last week called the French police and were told that they were in UK waters and to call the UK. They then called the UK and were told they were in French waters. Is that right?

Tom Pursglove: My very clear understanding is that the incident occurred in French waters, but I would like to hand over to Mr O'Mahoney to set out a bit more context for the committee's benefit on this.

Chair: If you could, just give us the answer to the question about whether there was a call from the boat to the French authorities, whether there was a call to the UK authorities, what they were told when they made these calls, whether you attempted to co-ordinate a rescue operation, and whether you are doing anything to ensure better search and rescue operations in future to protect lives.

Dan O'Mahoney: It is very important to explain the wider context of what was happening in that period of time. There were multiple migrant boats in the water. A number of reports were made to the French and a number of reports made to the UK. I cannot speak on behalf of the French rescue services, but I can certainly say that the coastguard received dozens of calls that day and they responded to every single one of them.

I cannot say with any certainty whether the migrants contacted the French rescue authorities or not, and I cannot speak on their behalf as to whether they responded to them. But certainly, every day, Border Force, the coastguard agency, the Royal National Lifeboat Institute and the French rescue authorities work hand in hand very effectively, and the work that we have done has saved hundreds, if not thousands, of lives.

Chair: Did the people on this boat, or anybody on this boat, call the UK authorities from this boat, and what happened when they called? A

response could be anything. A response could be, "We're not doing anything". Did they call from this particular boat, leaving aside all the others? Are you able to tell us?

Dan O'Mahoney: I can speak on behalf of the UK that we received dozens of calls in that period of time and we responded to every single one of those calls.

Chair: But did you receive a call from this particular boat? Are you able to identify whether you did?

Dan O'Mahoney: At this stage I cannot tell you with any certainty whether we definitely received a call from that boat or not.

Chair: So you will work to find that out, will you?

Dan O'Mahoney: It is a question for the coastguard and they are working through it. I am working very closely with the coastguard. But our clear understanding, what we definitely know about that boat, is that the French authorities alerted us to the presence of that boat, which had been damaged. There were people in the water at 12.58, at which point it was well within French territorial waters in the French search and rescue zone. We responded immediately to that. The coastguard sent a helicopter and we made all our surface assets, our boats, available.

Chair: But you do not know whether, prior to that, they had called the UK authorities, and you are looking into that.

Dan O'Mahoney: We are looking into that. To manage your expectation, though, it may never be possible to say with absolute accuracy whether that boat was in UK waters or French waters prior to that.

Chair: I am asking about the call at this point and whether you can identify with any accuracy and certainty whether the people from this boat did call the UK and what happened following that call from them. I am not asking about the call from the French authorities, which you have helpfully told us about, but about the call from that boat.

Dan O'Mahoney: I cannot tell you with any certainty that the people on that particular boat called the UK authorities. What I can say at this stage is that we received a number of calls and we responded to all of them. So certainly if the people from that boat had called the UK authorities I can tell you that we definitely responded to that call.

Q38 **Lord Singh of Wimbledon:** I am a Cross-Bench Member of the House of Lords. In recent years there has been a significant increase in the number of individuals making channel crossings. Can you confirm how many people have crossed the channel in small boats in 2021 so far? What do you think the reasons are for the increase?

Tom Pursglove: So far, in 2021, it is over 25,000 arrivals. There are several reasons for the increase that we have seen. Clearly, Covid has had an impact on the availability of other routes that perhaps would have

been more regularly availed in previous years. We have also seen the channel crossing in small boats become essentially the route of choice for those seeking to get to the United Kingdom rather than clandestine routes that we have seen more regularly in previous years, such as in the back of lorries.

I think it is fair to say that the criminal gangs have become more daring; they are willing to take greater risks with people's lives. We are seeing crossings embarking from a wider stretch of coastline. Originally we were looking at around a 50-kilometre stretch. They now embark from around a 200-kilometre stretch. Of course, we know that these crossings are hugely valuable to them in terms of the revenues that they can generate. There is concern about wider criminality being funded through these crossings. I hope that that gets to the nub of your question. The answer is over 25,000 this year.

Lord Singh of Wimbledon: It does not really explain why there has been a huge increase in the number of people seeking refuge. Can it be linked to the conflicts in the Middle East, conflicts in which we have participated?

Tom Pursglove: Only in the last few weeks, we have seen issues on the Polish border that are undoubtedly causing instability in that part of Europe. We are seeing criminal gangs that are actively going out there, identifying people to try to bring to the United Kingdom, and providing a vehicle by which to do that. You hear some of the horror stories about the duress, the threats, that people are put under. Women think that they are getting in the back of a lorry. Then they find that they are taken to the beach and are put in a boat, and are told that if they do not get in the boat their children will be drowned. This is horrendous stuff. We are seeing that greater risk being taken with people's lives. What is going on is unthinkable.

What has happened is that this route has become more established. We have seen more people come. I think that as a direct result of that you have inevitably seen greater numbers of people trying to make that crossing, because they have seen others be successful in achieving it.

Lord Singh of Wimbledon: My question, though, is about the increase in asylum seekers as a result of conflict in the Middle East, conflict in which we have participated.

Tom Pursglove: One thing we do know is that there are around 80 million people in the world who are displaced. The vast majority of those individuals seek to remain close to home with a view to going back home when conflict subsides. But we are seeing greater flows upstream. I have consistently said that not only do we need to deliver the Bill and improve our domestic situation, but we have to collaborate with our near neighbours—the Belgians, the French, for example. We also have to work upstream.

We have to continue to provide help and support in the region in the way we have in the past, and we should all be proud of the UK's contribution in those areas of humanitarian crisis and conflict, because that has a direct effect on the number of people who are coming. But I genuinely think that the optics of people seeing people making these journeys and being successful in getting here is a magnet, too.

Q39 Lord Brabazon of Tara: I am a Conservative Member of the House of Lords. My question concerns pushbacks. The Bill permits Border Force officials, with the approval of the Home Secretary, to take enforcement action, including pushbacks in respect of small boats in the channel. It has been reported that the Government already know that these powers are unworkable in practice. Is this true? Could you tell me a little bit more how you expect to see this power work? If you have a Border Force cutter intercepting a small boat in the channel, it will presumably try to get that small boat to turn round and go back to France. If that boat refuses, what will it do? Presumably it will not open fire.

Is it going to push this boat back physically, in which case you have the serious danger of a marine disaster? On the other hand, if you are on one of these small boats, is not the obvious thing for you to do to scuttle that boat as quickly as you can and then get rescued by the Border Force cutter and taken in relative comfort to England? How will this work?

Tom Pursglove: I think it is fair to say that the maritime tactics to which you refer have been signed off by Ministers. We consider that they are safe and legal, and of course it is for operational commanders at sea to make judgments based on their vast experience, knowledge and expertise about the deployment of those tactics at any given time.

I am not in a position to say any more than that in the committee this afternoon, in the same way that I have been unable to say any more about this elsewhere, because to do so would simply provide these evil criminal gangs with more information than we would want them to have about the approach that we take. That would only aid and abet their evil work.

Lord Brabazon of Tara: That does not get us very far.

Q40 Chair: I appreciate that we only published our report this morning, Minister, and that our amendments on the Order Paper for the Report stage next week only appeared this morning. I know that you will not have had much time to consider our report, or the amendments that our expert legal team have drafted in order to put into effect the proposals in our report after consideration of the evidence that we have received.

Could I just take you through a number of our amendments so that you can indicate whether you are ruling them in, ruling them out or still thinking about them? Could I take you to Amendment 1 in our report, which basically says that, in relation to pushbacks, it "would ensure that enforcement action complies with international maritime law, similar to other enforcement action under Schedule 4A to the Immigration Act 1971"? If you are not planning to be out of compliance with international

maritime law, could you accept that amendment and that it would clarify and reassure people that nothing in this Bill will be at variance with international maritime law?

Tom Pursglove: I would obviously like the opportunity to consider your report in its entirety and in the fullness of time. But in relation to international maritime law, I am very clear that we will always act in accordance with international maritime law, and SOLAS operations, for example, will always be carried out where required.

Chair: If you are always going to be in compliance with international maritime law, then hopefully you will find no objection to it being put into the Bill with regard to this very controversial new measure.

The next amendment in our report is Amendment 2, which would ensure that enforcement action, such as pushbacks, could not be taken against unseaworthy vessels. I know it is not your intention to cause more danger to lives that are already at risk, so would you be prepared to accept this amendment, which says that pushbacks would not be taken against unseaworthy vessels?

I have heard what you said about not wanting to encourage more people to take to the sea but, bearing in mind the concern, would you say that you are not wanting to put more people's lives at risk, that it is not part of your deterrent approach to put people's lives at risk?

Tom Pursglove: I am confident that the operating model already takes proper account of that issue.

Chair: If the operational model already takes account of that, then putting it on the face of the Bill would not be in contravention of that, so I would ask you to consider, before next week if you would, whether you are able to accept that amendment.

The next amendment is Amendment 3, which would ensure that the maritime enforcement powers cannot be used in a manner that would endanger lives at sea. I am sure you have no intention of putting these powers into the Bill in order to endanger lives at sea, but I think people would find it very reassuring if that was put on the face of the Bill. Could I ask you to look at that as well, unless you have an initial response?

Tom Pursglove: Just in relation to the earlier point that I made, obviously it is for operational commanders at sea to take proper decisions, taking full account of the circumstances, but again I know that they are mindful of that issue, of course.

Chair: But it is for Ministers to decide whether the powers that have been given to them should not be used in a way that endangers lives at sea, and that is an issue for policy and for legislation. We will be considering it next week. Hopefully you will be minded to accept it at that point.

Amendment 4 is another issue about endangering life at sea, and we will go on to Amendment 5 in a further question, so I will leave you at that

point. But thank you for your answers and for your prospective consideration of these amendments.

Q41 Lord Dubs: I am a Labour Member of the Lords. The Government's own equality impact assessment acknowledges that increased security and deterrence could encourage asylum seekers to attempt riskier means of entering the UK. If the Bill is passed, what will the Government do to ensure that asylum seekers do not attempt riskier journeys?

Tom Pursglove: One thing is absolutely for certain, and that is that the channel crossings that we are seeing are hugely risky and hugely dangerous. As the Chair rightly set out at the beginning of this afternoon's proceedings, we saw that brought into very sharp focus again last week. We are clear that we do not want people to be making dangerous journeys in any context. When I talk about trying to stop these dangerous journeys, I am not just referring to channel crossings. I am also talking to the issue of crossings of the Aegean and other oceans. These are hugely dangerous crosses that people are undertaking at the moment. We do not want to see dangerous crossings of any description or dangerous journeys of any sort.

Clearly fundamental to our policy is the long-standing approach that Governments of both sides, and of course the coalition Government between 2010 and 2015, upheld: the principle that people should claim asylum in the first safe country they reach. That is very much our position. I know there are differences of opinion on that, but that is a long-established principle and one that I think is of real value and real importance in the context of this debate. That would apply to any type of journey. People should not be trying to make dangerous journeys to the United Kingdom through any means.

What we would say, and which I think has real merit, is that if people want to come to the United Kingdom and they require to come to the United Kingdom in order to seek sanctuary, they should do so through safe and legal routes. As I said earlier, we keep those opportunities under constant review, and we obviously respond to emergencies, crises and conflict as those arise, precisely as we have done in the Afghanistan context in recent months.

Lord Dubs: Just a quick comment about something you said and then I want to come back to the question. On what you have said, you will be aware that the United Nations High Commissioner for Refugees disputes your assertion about claiming asylum in the first safe country. There is a real difference of opinion there. Could I go back to my question? My question was: what will the Government do to ensure that asylum seekers do not attempt risky journeys? We do not want them to attempt risky journeys. What are the Government going to do about it?

Tom Pursglove: As I say, there is a difference of opinion with the UNHCR on this matter, but we are absolutely confident that the provisions in this Bill are compliant with our international obligations, and we will continue to act in accordance with them. We want to stop

dangerous journeys, full stop. That has to be the objective of any Government at any time. That is the objective that we are working towards. That is where our collaboration with our neighbours comes into its own. That is so important.

That is where some of the measures in the Nationality and Borders Bill, for example on the checking of vehicles, are essential. We think it is important that the obligations on hauliers are strengthened to make sure that those checks are being carried out. We need to continue to deepen our co-operation with our French partners in particular, but also with the Belgians and other European neighbours, because these matters do not sit in isolation. No one country on its own can resolve the gravity of the challenges that we face at the moment. That applies to all illegal migration of any route.

We of course think that the channel crossings in particular are extremely dangerous, and we believe it is essential, it is a priority, that those are stopped. But we are also not taking our eye off the ball when it comes to other routes that perhaps have not been as commonly availed of of late but which, as things get back to normal post-Covid, will perhaps become more regularly used again. We have to look at this in the round. I think you raise an important point and it is something I am very mindful of.

Lord Dubs: I am forced to the conclusion that the answer to the question, "What will the Government do?", is not much, as far as I can tell, beyond talking to the French.

Tom Pursglove: I disagree with that. There is, for example, the work that we have done with the UNHCR, as I set out earlier. We work in the region and take the most vulnerable people. That is very important in all this, because that stops people feeling that there is a need to make these dangerous journeys in the first instance.

I would argue that the sort of collaboration that we have with the French in particular, and obviously the long-standing agreement on the juxtaposed controls, which have undoubtedly added value since the introduction of those measures in the early 2000s, needs to be deepened in order to make sure that we continue to tackle these challenges head on, because we do not want people risking their lives through any sort of dangerous journey to the United Kingdom, particularly when you think that nobody needs to make those journeys to be in safety.

It is perfectly possible to be in safety within a European country. France, Germany and other European countries have safe asylum systems. We must collaborate. We must work with them. I am mindful of the pressures, but nobody needs to get in a small boat, for example, or any other clandestine means to get to the United Kingdom in order to be in safety.

Q42 **Joanna Cherry:** I am the Scottish National Party Member of Parliament for Edinburgh South West. Just before I ask you my main question, I just want to ask a follow-up question to what Lord Dubs was asking. Clearly

you acknowledge at least that there is legal dispute about whether it is correct that people must claim asylum in the first safe country they get to. But if you are right about that, would it not put a very unfair burden on Italy and Greece, because most people who arrive in Europe wash up on the shores of Italy and Greece? Why should the Italians and the Greeks take all the asylum seekers? Why should they not be shared more fairly across Europe, including the United Kingdom?

Tom Pursglove: I think it is right that we collaborate with our partners and look at what more we can do. We keep under constant review the appropriateness and the nature of the collaboration that we have in place. You will note the clear position that was set out in the Prime Minister's letter to President Macron last week, in which obviously mention was made of a returns agreement but also the recognition that we may need to look at what we can do on this side of the channel to relieve some of the pressures that they are facing. There is a recognition in government that in order to tackle these challenges you have to collaborate, and there has to be that constructive working in the round.

As I say, I would argue very strongly that nobody needs to get into a small boat in order to seek safety. This is a long-established principle that is widely accepted in the international community. It is one that successive Governments in this country have sought to uphold, and I think it is right that it remains a fundamental plank of our approach to these matters.

Joanna Cherry: What principle is that?

Tom Pursglove: The principle that people should seek asylum in the first safe country they reach.

Joanne Cherry: You are quite happy for all these people who end up in Europe to stay in Italy and Greece—that is what you are basically saying—because that is the first safe country they reach, so that is the country they should stay in.

Tom Pursglove: I would argue that this country has and continues to make a very significant contribution to the global effort to resettle vulnerable people who are seeking sanctuary from persecution or conflict around the world. I genuinely believe, and have always believed, that it is right that our effort is predominantly focused on taking the most vulnerable people from camps in the region, for example. I think that is the right approach, because we must disincentivise dangerous journeys at every turn.

We must always keep under review, and work with our neighbours on trying to assist them in, relieving some of those pressures. For example, part of the French collaboration that we have in place at the moment is supporting some of the accommodation centre provision in France, because we know that, by supporting that, people are more likely to apply to be part of the French system. It shows what can be achieved

when you collaborate, and we are of course supporting that work, which is relieving some of the pressures on the French system.

Joanna Cherry: I want to ask you something concrete about collaboration with the French in a minute, but it seems to me that what you are saying is, yes, the United Kingdom will take people under the vulnerable refugee resettlement schemes, but, as far as we are concerned, asylum seekers should just stay in the first safe country they reach; we will not be taking any of them. Is that your position?

Tom Pursglove: My position is very clear that nobody should be making dangerous journeys to get to the United Kingdom, and for me that preservation of life is the fundamental principle.

Joanna Cherry: I think you would accept that the concept of asylum seeker exists. So your position seems to be that, in so far as there are asylum seekers, they should stay in the first country they pitch up in, which I think you have accepted is usually Italy or Greece.

Tom Pursglove: They point I would make is that nobody needs to make a dangerous crossing to reach safety. That is the fundamental thing front and centre in my mind on these matters.

Q43 **Joanna Cherry:** On that point, one organisation called Donate4Refugees that gave evidence to this inquiry suggested that the best way to prevent traffickers using small boat crossings, and the best way to save lives and to prevent the loss of life in the channel, would be to provide an alternative legal route for asylum seekers by enabling asylum seekers who are in France to claim asylum to UK officials at the UK border on French soil and to complete the first stage of their application in France. If their initial application for asylum is accepted by the Home Office in the UK, the Home Office could transfer them here on regular transport to go through the normal asylum process. Have the Government considered that option?

Tom Pursglove: I think perhaps you or one of your colleagues asked the Home Secretary about this last week.

Joanna Cherry: I did ask the Home Secretary about it.

Tom Pursglove: I think she gave you a categorical answer on that point.

Joanna Cherry: I will tell you exactly what she said. She said that it was not something the British or the French Government would entertain. I want to know why you would not entertain it. Why would you, the British Government not entertain it, and have you asked the French if they would entertain it?

Tom Pursglove: My primary concern about that suggestion—I have now made this point repeatedly, but it bears repeating again—is that I do not want to see people making dangerous journeys wholesale. That does not just apply to the channel; that applies more generally right from source. I do not want to see people making dangerous journeys, and the biggest

pitfall to that policy suggestion, in practical terms, is that all that avowing that facility does is encourage people to make dangerous journeys in order to get to France, for example.

Joanne Cherry: Have you ever put this suggestion to the French Government?

Tom Pursglove: I have not, in the time I have been—

Joanne Cherry: Not just you, but has the Home Office explored this possibility with the French Government?

Tom Pursglove: Not that I am aware of.

Chair: Could we ask Mr Hobbs whether he is aware of whether this has been put to the French Government, who the Home Secretary said would not entertain it?

Dan Hobbs: There have been a range of discussions with the French across all the options—policy and operational—in the context of small boats. It is my understanding that the French share the view that the Minister just alluded to—that they are not interested in opening such a facility in northern France, because this is about illegal migration not just across the channel but across the Mediterranean. There are legal and safe routes to the countries that host the most, which are the first safe country. Our resettlement has focused on Lebanon, Turkey and Jordan rather than safe European countries. I think the French position to date has been that they do not wish to see that operation.

Joanne Cherry: Let us just be clear exactly what has happened here, because the Home Secretary told me that it was not something that the British or the French Government would entertain. Have the British Government entertained it, and have the British Government put it to the French? Yes or no?

Tom Pursglove: We can only refer you to the answers that we have already given. I would again—

Joanne Cherry: You are suggesting that it might have been discussed. It is quite simple, because it seems to me that if the Home Secretary says that it is something the British Government would not entertain, she has probably not put it to the French because she would not entertain it, so why would she put it to the French? But then she goes on to suggest that the French would not entertain it, so how does she know that the French would not entertain it if she has not put it to them? It is not just Donat4Refugees who are suggesting this. A number of expert agencies who work with asylum seekers have suggested this, and there is at least one amendment down next week proposing a scheme similar to this.

I am just keen to explore exactly what is meant by this, in the way I could not in the Chamber because I only got one question. Have the British Government entertained it, and, if so, have they put it to the French? Those should be quite simple questions to answer. If you cannot

answer them today, perhaps you can check and write to us about it, because we would like to know before next week, before the relevant amendment is discussed in the Chamber.

Tom Pursglove: I will very gladly go away and make some inquiries on this. I entirely appreciate the sincerity with which you make the suggestion, but the flaws that I have alluded to would be a barrier to doing that, both from our perspective but, in all likelihood, also from a French perspective. But I will very gladly take away your question.

Joanne Cherry: The flaws you allude to are based on the assumption that if you create schemes like this they become a pull factor. You will be aware that many committees of this House have taken evidence suggesting that these pull factors are not nearly as significant as your Government suggest they are.

Tom Pursglove: I think it is fair to say that that would act as a pull factor.

Joanne Cherry: That might be your opinion, but I am interested in what the evidence—

Tom Pursglove: You are obviously expressing yours, and that is the nature of—

Joanne Cherry: I am not actually expressing my opinion. I can refer you to the evidence, if you like, and perhaps we can continue this discussion in writing.

Tom Pursglove: Mr Hobbs would like to come in on this.

Dan Hobbs: Just on the evidence on the pull factor, if we go back to when we cleared the Calais Jungle in 2016, there was talk then that the UK would take significant numbers of children. Overnight, we saw the number of unaccompanied children in northern France double overnight, and that was on the basis of press reporting, not a government commitment.

Joanna Cherry: You solved that problem by not taking the children you promised to take. Is that not what happened?

Dan Hobbs: I will let the Minister answer on that, because I do not think there was a promise to take the number, but that is a separate issue. In terms of evidence, in the past when announcements have been made, not by the Government but by the press, that indicate that the UK was changing its position, we saw a doubling overnight of unaccompanied children in northern France. So there is some evidence that those things do drive different migrant behaviour.

Lord Dubs: On that last point, I was not aware that they had doubled overnight. I used to go to Calais quite often, so this is totally news to me. If you have any evidence that they doubled overnight, I would be interested in it.

In answer to Joanna Cherry's point, Minister, we had at least a couple of schemes with a process of identifying children, mainly in northern France but also some on the Greek islands—one under the amendment I got through, and one under the Dublin III treaty, whereby children were identified and came here. Although it was not quite done legally the way Joanna Cherry suggests, it was a pretty similar process. It seemed to work and then the Government stopped it.

Tom Pursglove: Obviously I was not the Minister at the time of those debates and, in that sense, I have come to this issue fresh. But it is my understanding that Parliament made a one-off commitment to take up the scheme that you advocated, and of course it is very welcome that over 47,000 grants of protection have been made to children since 2010, which is not an insignificant figure. We are all very conscious of the need and the desire to do right by unaccompanied children in particular. I have huge respect and admiration for the advocacy that you have shown on this issue over many years, and undoubtedly it has made a difference to the lives of many children and young people in this country.

Q44 **Florence Eshalomi:** One of the issues that has obviously been covered in the press is the fact that the Home Office regularly relies on rescue boats, including the RNLI, to save some of the refugees who are out in the sea. The Bill as it stands amends provisions on facilitating breaches of immigration or facilitating those arriving in the UK without a visa, and increases the maximum sentence to life in prison. There is also the specific amendment relating to facilitating people who arrive, and in effect it would criminalise organisations such as the RNLI for carrying out those life-saving activities.

How is this proportionate in the Bill? In a sense, it is unfair in that it imposes harsh sentences on people who are carrying out a job and assisting some of the most vulnerable refugees?

Tom Pursglove: I am grateful to you for raising this. That is illustrative of the debates that we had in the Bill committee where Members across the House rightly raised this issue, and as Ministers we have wanted to put this matter beyond doubt. That is why we have introduced a Report stage amendment that deals directly with this issue of SOLAS and the coastguard and the RNLI. It puts beyond doubt that there would not be prosecutions in the event that SOLAS operations were carried out by those individuals, and I hope that all Members will feel able to come together and support that on Report next week.

Florence Eshalomi: That covers anyone providing any form of assistance.

Tom Pursglove: That clearly covers organisations that are tasked with and work with Her Majesty's Government to conduct rescue operations at sea. One of the key points in all this more generally is that there is a public interest test that is always at play when it comes to prosecutions. Obviously the independent prosecutors always have to weigh up whether it is in the public interest to press ahead with a prosecution, taking into

account all the factors in any given case. I think that where organisations are working with the Government it is right that they are protected from prosecution, and that is precisely what we are doing in these circumstances.

If, for example, a fishing boat were to come across individuals who were in peril in the sea—Mr O'Mahoney will no doubt correct me on this if I miss anything out—they would engage with the coastguard and pick individuals up, because there is a duty to preserve and protect life at sea. There would then be absolutely no risk of penalty to those individuals, because it simply would not be in the public interest to prosecute on that basis.

Florence Eshalomi: Would that exemption also cover rescue operations if, for example, the UK was not the nearest place of safety?

Tom Pursglove: Certainly in relation to our territorial seas it is my understanding that this would apply, because those are our waters and it is right that our law governs those waters.

Florence Eshalomi: Would that also include an exemption for people who are in the boat and steering it themselves? If one of the people on the boat was hoping to claim asylum in the UK, would that cover them from prosecution?

Tom Pursglove: No. But, again, the point that I would make about the entry offences is that our policy is very much targeted towards the evil criminal gangs. It is not targeted—

Chair: Minister, there is a vote in the Commons now. We are suspending for 15 minutes.

The committee suspended for a Division in the House of Commons.

On resuming—

Chair: We are starting again. Minister, you were in the middle of a response to Florence Eshalomi. Please complete your answer to her.

Tom Pursglove: The point I was making before we went to vote was that the individuals on board one of these small boats would not be performing a rescue.

Regarding the entry offences, unless there are aggravating factors—for example, people acting in a totally unacceptable manner, with violence towards Border Force staff trying to rescue them—we would continue to seek the removal of the individual, should they have no right to be here, rather than to prosecute them, because prosecution acts as a barrier to removing someone with no right to be here. We would not want unnecessary additional barriers.

Florence Eshalomi: Thank you. I will leave it there.

Chair: You have just answered a question in relation to the point that the Home Secretary has brought forward an amendment, as you mentioned, to ensure that those who are doing it for humanitarian reasons rather than for financial gain and criminal reasons are not caught by the terms of this new criminal offence.

Tom Pursglove: Yes. There is a Report stage government amendment dealing very specifically with the RNLi/coastguard issue that many Members across the House have been concerned about.

Chair: We had also been concerned about that because of the evidence we have heard. We also drafted and tabled an amendment, but I think the Government's amendment deals with that, so we need not move that amendment. It is a very welcome move that the Government have made, and I thank them for that.

Tom Pursglove: Thank you for raising it as a committee.

Chair: We will go back to the pull factors when Dean Russell comes back from voting.

Q45 **Lord Henley:** I am a Conservative Member of the House of Lords. The so-called group 2 refugee—one who may have been granted lesser status because they were found not to have come directly to the UK, not to have presented themselves without delay to authorities, or not to have good cause for their unlawful presence—could be denied family reunification rights or have a no recourse to public funds condition attached to their grant of leave. That could interfere with their right to family life, as enshrined in Article 8, or, if they are left destitute, their right to be free from inhuman or degrading treatment, as enshrined in Article 3. What are the Government going to do to ensure that the ECHR rights of group 2 refugees are not breached?

Tom Pursglove: As a Government we are very strongly of the view that the measures being introduced through the Bill in relation to differentiation are compliant with international obligations. The detail of differentiation and what that involves for individuals in the two groups will be set out in due course in guidance.

Compliance with our international obligations includes family reunion requirements. It is important to make the point that support would always be provided to individuals who found themselves destitute.

Lord Henley: We are waiting for guidance. A lot of us have used that expression in the past when we have been Ministers. When are we going to get that guidance?

Tom Pursglove: I cannot give you a definitive timescale at this point, but we are working towards operationalising the Bill. We want to get on and deliver the provisions in the Bill as quickly as possible at the point at which the legislation receives Royal Assent. We recognise the urgency with which these measures are required in order to tackle the challenges we face.

There is work going on in the Home Office to work up the background guidance and the Immigration Rules that would inevitably follow on from this becoming law.

Lord Henley: The Bill is proceeding through the Commons. Will we see the guidance during the passage of the Bill?

Tom Pursglove: I am not sure. Mr Hobbs, it might be worth you saying a bit more about the operationalising of the measures at this point and the work going on in the department on that.

Dan Hobbs: This is guidance that goes to our caseworkers and will be published in the normal course of events. As the Minister said, running alongside the Bill, subject to the parliamentary process, we are planning for its implementation. As part of that we will be training caseworkers on the new process, and that guidance will be published in the usual way. Immigration guidance is published on GOV.UK.

Just to come back to what the Minister said, we will be doing that in conformity with our obligations, particularly with regard to the instances you raised in relation to Article 8, and to Article 3 on destitution.

Lord Henley: You still have not answered my question. Will we see it during the passage of the Bill?

Dan Hobbs: The publishing of the guidance will be a matter for Ministers. It does not normally sit alongside the Bill. It is part of implementation. It is not a Bill product per se.

Lord Henley: It is not a Bill product, but it influences how people think about the Bill as it goes through.

Tom Pursglove: I have heard your request, Lord Henley, and I will gladly take that away and reflect on it.

Lord Henley: If you are wanting to operationalise the Bill it would assist us in observing that operationalisation if we saw the guidance.

Q46 **David Simmonds:** These are the questions that we had not previously considered. Minister, they fall into two areas, one in respect of refugee children and one in respect of refugees more generally.

The UNHCR gave evidence that they thought the Bill was fundamentally at odds with the refugee convention in respect of the differential treatment of refugees permitted by Clause 11, and they talked about a lesser class of refugees. The committee is also aware that time-limited humanitarian protection is not unusual; there are other countries such as Denmark that apply such restrictions. Can you explain in respect of this two-tier approach how the Government reached the conclusion that the differential treatment is compatible with the prohibition on discrimination that is contained in the convention?

Secondly, in particular respect of child refugees, one of the questions that has arisen is how creating a second or lower tier of treatment for a child

refugee could impact on a child's rights and the UN conventions on the rights of a child. There are differing views on this, but can you confirm whether unaccompanied asylum seeking children would be excluded from the effects of Clause 11, the creation of two tiers? Can we be assured that it is compatible with our obligations under the European Convention on Human Rights, or any of the relevant UN conventions?

Tom Pursglove: Thank you for your questions. In responding to you I restate the point that we are very firmly of the view that the legislation we are proposing is fully compliant with our obligations under the refugee convention and the European Convention on Human Rights.

At this stage, in relation to the point you raise about children, the position is that we have not ruled that out at this point.

David Simmonds: So at the moment we are not clear what the position is in respect of children, but that will become clear in due course. Is that fair?

Tom Pursglove: Yes. We will clearly set out the position.

Q47 **Dean Russell:** In the broader context, when we are talking about this topic it is a very sensitive topic and different perspectives are given. Some people think it is very harsh not to want to do everything to open the borders. Others are very concerned about people coming over illegally. One of the things that is often talked about is the pull factor, the idea that people are coming across in illegal boats and then being put in hotels, being looked after really well, going through the welfare system and being given lots of opportunities that some might feel is unfair.

I just want to get your sense of how the Bill will address both sides of that, because there is an incredible need for compassion for people who are going through these awful journeys and being taken advantage of by awful, evil serious organised crime gangs. However, there is also an important need to protect our borders and make sure that we are not creating an opportunity for people effectively to sell the UK, for the serious organised crime gangs to say, "Hey, we'll take you there, and life will be brilliant and the pavement will be gold for you", and to make it show that we do not have these pull factors.

Can you contextualise how the Bill will make a difference on that front?

Tom Pursglove: You have really got to the heart of the issue there, Mr Russell, in saying that of course there are some people who argue that we should have no immigration controls whatever, and there are people on the other side of the argument who say that we should have no immigration whatever. Neither of those positions is practical or reasonable.

There are differences of opinion about the way the Bill's measures are presented, and about some of the issues in the Bill, but broadly speaking there are those of us in this House who would argue that there needs to be reasonable and sensible control of our borders that has preserving human life at its core and is compassionate, shows international

leadership, and means that we do right by some of the most vulnerable people on the planet.

One of the key messages I have really tried to get across at all stages of scrutiny of this Bill when I have been speaking to it in the House and in the committees is that it is very important that cases are looked at on a case-by-case basis, that all the circumstances of cases are properly taken into account, and that the system is sympathetic and appropriate in the way it handles vulnerabilities and trauma. Sensitive matters like modern slavery I know are of huge concern to Members across the House. These are matters of the most significant gravity and seriousness.

When we operationalise this Bill, I am very mindful that we need to be sympathetic to that and work very much in a way that is mindful of the individuals and that they are not just numbers on a sheet in the immigration statistics. All these individuals are people with real stories. Some people have been through unthinkable tragedy and hardship, and you hear harrowing accounts in this role. That is why safe and legal routes are so important and why we have to put these evil criminal gangs out of business.

That is why the policy is firm but, I also think, fair. The measures in the Bill are comprehensive in trying to deter people from making dangerous crossings and make sure that the thrust of the policy is directed at the evil individuals responsible for bringing people in small boats across the channel.

The Bill is also trying to put a system in place whereby those who genuinely are fleeing for their lives and who require sanctuary can get the help and refuge in this country that people would expect. That is the leadership Britain has always shown and will continue to show. I want to reassure the committee that all of that is very much at the forefront of my mind as we take this forward.

Dean Russell: On that point, would you say the Bill addresses all the pull factors, and is it enough to get the serious organised crime gangs to know that the UK is not the destination that they should be looking at, while also helping people understand that they should not go to those routes to try to get somewhere when there are many other legal approaches that they can take around the world?

Tom Pursglove: I want to put these evil criminal gangs out of business wholesale, not just in relation to the United Kingdom but much more widely, because the evil they inflict and the disregard they have for human life is absolutely shocking and appalling, and all in the name of profit.

Pull factors are quite difficult to quantify. It is important to recognise and be clear about that, but I go back to the point that all these individuals who are getting in small boats at the moment are coming from safe France or safe Belgium. There is no necessity to leave those countries in

a small boat in order to seek refuge and to seek sanctuary. We must always bear that in mind.

Pull factors are interesting, because a lot is said about the French position. One of the things the French have quite openly said in the media is that they regard the UK system as very generous, which they argue attracts people to the French coastline in order to make those journeys. There is, at least anecdotally, an argument there about a pull factor.

As I said in answer to Lord Singh's question at the very outset, the rise in the number of small boat crossings that we have seen, by virtue of the fact that people have seen others managing to get to the United Kingdom in these small boats, has undoubtedly meant that more people have embarked to get to the French coastline to make those journeys, because they have seen others being able to get here. When they have got here, because of the nature of the broken asylum system that we are trying to fix through this Bill, people who have no right to be here are here for far longer than any of us would like. We have to fix that, and we have to sever the link between people thinking that getting in a small boat and getting to the United Kingdom guarantees that you will stay here.

Q48 Joanna Cherry: You seem very confident about these pull factors, Minister. If that is the case, why is the Home Office refusing to release its evidence on whether these pull factors play a part in bringing asylum seekers to the United Kingdom?

Tom Pursglove: We have said that we will publish the economic impact assessment. I have made that undertaking in the House, and that is something we will do.

Joanna Cherry: That is the economic impact assessment, but is it not the case that you got a freedom of information request earlier this year asking you to publish evidence to support your claims on pull factors? In your response, dated 28 October, the Home Office said that the material could not be disclosed because it was "likely to inhibit the free and frank provision of advice and the free and frank exchange of views for the purposes of deliberation".

Tom Pursglove: I think it is right that at the point at which Ministers are formulating policy they are entitled to have that advice and to be able to look at all these matters appropriately and sensitively, so I support that position outlined in response to that freedom of information request.

As I say, the challenge of pull factors is very complex, but I think the examples I have given, albeit it anecdotally, do demonstrate the nature of the sorts of pull factors that are arguably leading people to make these small boat crossings.

Joanna Cherry: If you wanted to convince Members of Parliament that the rather extreme measures in this Bill are necessary, would the sensible thing to do, if you had evidence of these pull factors being a significant factor, not be to release the evidence to us so that we could

make up our minds for ourselves?

Tom Pursglove: Ms Cherry, you will know that I am always keen to try to persuade you of the merits of my arguments, but the position is as per the one set out. I have given the committee some colour this afternoon with the arguments on pull factors, and that speaks to the nature of the challenge that we are currently grappling with. Ultimately, we have to render this channel route unviable and, as I say, sever the link between people thinking that they can get in a small boat on the French coastline and get to the United Kingdom and inevitably end up staying in the UK.

Joanna Cherry: Previous Home Office research into asylum seekers' decision-making appeared to undermine the pull factor argument for harsher policies. It said, "They"—that is asylum seekers—"are guided more by agents, by the presence or absence of family and friends, language and perceived cultural affinities than by scrutiny of asylum policies or a rational evaluation of the welfare benefits on offer".

If that was the previous conclusion of Home Office research, do you not think it would be helpful to publish your latest research if it contradicts that?

Tom Pursglove: As I say, we will publish the economic impact assessment in due course but, as I have now said repeatedly, it is very difficult to quantify what are complex pull factors. They often vary in individual cases, from individual to individual, by the nature of everybody's own lived experience and story. I have alluded to some common themes that speak to the nature of the pull factor that is undoubtedly drawing people to come to the United Kingdom in the way I would argue we should all be so concerned about.

Joanna Cherry: Will this economic impact assessment cover all the pull factors that you say are in play, or just the economic one?

Tom Pursglove: As I say, you will have the opportunity to see the economic impact assessment when it is published.

Q49 **Joanna Cherry:** We had evidence from Raza Husain QC, who told us that the non-penalisation, criminally and administratively, of those who arrive irregularly is at the very core of the refugee convention, meaning that the refugee convention makes it absolutely clear that those who are signatories to it should not be criminalising or administratively penalising those who arrive here irregularly.

Can you explain to us how the Government have concluded that criminalising arriving in the UK without a valid entry visa under Clause 39 of the Bill—when there is no visa available to claim asylum, as we discussed earlier—is compatible with our obligations under the refugee convention?

Tom Pursglove: We are very clear that differentiation is not a penalty. We are using the criteria in Article 31 of the convention as the basis for the legal framework to differentiate, but the intention is not to penalise

refugees. In any event, our position is that it does not. The purpose of this is to discourage asylum seekers from travelling to the UK other than via safe and legal route.

It aims to influence the choices that migrants may make when leaving their countries of origin, encouraging individuals to seek asylum in the first safe country they reach after fleeing persecution, avoiding dangerous journeys across Europe. I recognise that you and I perhaps disagree on that matter quite profoundly, but it is, as I have said now several times, a fundamental plank of the way successive Governments in this country have approached these matters, and it is as relevant now as it has been then.

Q50 Angela Richardson: My question is on deprivation of citizenship. Clause 9 of the Bill would allow the Secretary of State to deprive an individual of their citizenship without notice in certain circumstances, including where "it would for any other reason not be reasonably practicable to give notice or ... in the interests of national security", foreign relations, "or ... the public interest". In practice, this prevents the affected individual from exercising their right of appeal, given that they have no knowledge of this decision to deprive them of their citizenship.

Are you able to explain how you consider this to be compatible with the right to a fair trial as enshrined in Article 6 of the European Convention on Human Rights?

Tom Pursglove: I am really grateful for the question, which is very topical and has attracted some interest in recent days. I have been very troubled by some of the misinformation that has been peddled about this issue that has genuinely caused real concern to people in our country.

What we are talking about here is high-harm individuals, for example terrorists, who disappear or perhaps go to ground and who the Home Office is unable to make contact with but for whom we have legitimate grounds by which to deprive them of their citizenship on the grounds of national security, for example.

The idea that this measure is targeted at the normal man or woman in the street is completely wrong and false, and it is irresponsible for individuals to go around peddling that information. A key point is that if such an individual were to come back on to the Home Office's radar and make contact, they would be able to exercise their appeal rights in the normal way. This is very much geared at ensuring national security.

Angela Richardson: Other than these high-harm individuals who pose a threat to national security, are there other types of circumstances or people who could be caught up with this?

Tom Pursglove: The bottom line here is that we cannot deprive someone or leave someone's status on conducive grounds, but we can if someone has gained that status fraudulently. Those are the only circumstances beyond that. As I say, this is very much aimed at high-harm individuals where we genuinely have very grave concerns about

national security and it is clearly conducive to the public good to take those steps.

Q51 **Chair:** I will now look at the issue of some of the decision-making, in particular late evidence. In our previous session, Zoe Gardner from the Joint Council for the Welfare of Immigrants told us that the new rules in the Bill on credibility and weight of late evidence, which require the authorities to give it minimal weight if it is late, would result in more people who are genuinely fleeing persecution being denied the protection they need.

In the light of those concerns, what will the Government do to ensure that those who submit evidence late do not have their applications refused and therefore risk being returned to countries where they may face torture, inhuman or degrading treatment contrary to Article 3 of the European Convention on Human Rights, or other breaches of their human rights?

Is it a bit of a blunt instrument to say, "Well, if you gave your evidence late we're just going to put minimal weight on it", rather than looking at what has actually gone on?

Tom Pursglove: You have raised various points there, which I would just like to deal with in turn. First, it is always important to make absolutely clear that we do not return people to countries where to do so would put them in danger. That is a fundamental principle that we uphold, and we look at cases on a case-by-case basis to make sure that appropriate decisions are made. You will note, and this illustrates the responsive nature of the system, that we are not removing people to Afghanistan in the present circumstances. I think we would all agree that that is right and proper, given the circumstances on the ground in Afghanistan at the moment. We do not put people in danger.

On this issue of late evidence, I do think there is a need for reform in our asylum system. At the moment, we see individuals who seek to frustrate the process. We see the constant cycle of appeals, and it is all designed to frustrate legitimate removal from the United Kingdom, so I do not think the measure is unreasonable. I would also argue that the Home Office needs to do more to process claims more quickly. There is a transformation piece of work going on to achieve that, because, I would argue, it is fundamental to a humane asylum system to try to give people certainty as soon as possible. That is the end of the bargain that we must uphold.

It is not unreasonable for people to provide evidence within a reasonable timeframe, but there is a safety net here in the form of good reasons, which we will set out in guidance. We have had a lot of debate about good reasons in the various debates on the Bill so far, and we will reflect on that feedback as we draw up the guidance on good reasons. It would mean that if people are able to come forward with good reasons for providing their information late, again on a case-by-case basis, that should be properly looked at and an appropriate decision made, which I

think overcomes the blunt instrument concern that you set out in your question.

Chair: I will just pick up on the point that Lord Henley made. If this is to be reassuring to those of us who are concerned, it would be much better for that guidance to be produced before the House of Commons has concluded its consideration, or at the very least before the Lords has concluded its consideration.

Can you try to get your guidance on track, not just with the post-Royal Assent operationalisation but with the consideration that has been given by Parliament to this Bill, because that guidance is supposed to be reassuring and we need to see it before we make up our minds?

Tom Pursglove: Madam Chair, your committee has expressed a strong desire today, which I will certainly take back and reflect upon.

Q52 **Baroness Ludford:** I am a Liberal Democrat Member of the House of Lords. I want to turn to a subject that we have not touched on yet, and that is the offshore processing of asylum seekers. We have had flurries of reports in the press, which have been a little confusing and even contradictory in the places mentioned and the denials coming forth. The Bill would permit the offshore processing of asylum seekers, but Médecins Sans Frontières told us that individuals being processed on Nauru Island by Australia “demonstrated some of the worst mental health suffering” that MSF “had ever encountered”.

Could the Minister please tell us what the Government will do to ensure that any offshore processing arrangement that you do reach respects the human rights and well-being of asylum seekers?

Tom Pursglove: Yes, this is an important point. What I would say to the committee is that we would only ever work with countries that are completely compliant with their ECHR obligations and of course the refugee convention. What I am not able to do is give a running commentary in this committee on negotiations that we may or may not be having with individual countries, but we are very clear, as Ministers, that we would only ever work with countries that are compliant with those obligations.

Baroness Ludford: When do you expect to be able to announce any arrangements reached?

Tom Pursglove: I am afraid that would be drifting into discussion on negotiations and I am simply not in a position to do so.

Baroness Ludford: Is it not rather similar to all the discussions we have been having about the guidance? I think Lord Henley first made this point: it is quite difficult to assess provisions in the Bill when you do not know how they will be implemented in practice. That definitely would refer to offshore processing. How can we discuss it in the abstract if we have no idea which territories might be envisaged in concrete terms?

Tom Pursglove: Obviously you have referred to the Australian situation. The point that I made very clearly in Committee consideration in the Commons was that the model that we would be seeking to proceed with is one where individuals would be processed as part of the asylum system of the country that we had an agreement with, rather than people being offshore and processed as part of our asylum system.

Baroness Ludford: That is an interesting distinction.

Chair: Thank you. We will turn to David Simmonds now for a question about age assessments.

Q53 **David Simmonds:** The Bill allows for the Secretary of State to make regulations providing for the use of scientific methods to assess the age of unaccompanied asylum-seeking children. There are various questions about the use and the accuracy. For example, we heard evidence from the British Association of Dentists, which pointed to a study that showed that the mean difference between dental and known age ranges from one and a half to two years.

Minister, can I invite you to tell us whether the Government have a view about the accuracy of the methods that are currently available for this purpose and whether it is the Government's view overall that there are scientific methods available at the moment that are more accurate in determining age than the current Merton compliant age assessment process?

Is it more the case perhaps that the Government wish to be able to make use of emerging technology should it develop to a degree of accuracy that it would be a reliable indicator of age for the purposes of age-disputed age assessments, or indeed judicial reviews in respect of a decision that has been made by the Secretary of State for Young People?

Tom Pursglove: We had quite a productive meeting a few weeks ago where we touched on this issue of age assessments. Of course, I recognise that you have a lot of experience in local government as a former distinguished council leader.

It is fair to say that local authorities, broadly speaking, are supportive of the measures that we are seeking to introduce through the Bill, and that was reflected in the evidence session where we heard from a couple of local authority leaders in areas that have had some real challenges with age assessment. It is important that we deliver reform in this area, because some of the safeguarding risks that we see currently are very, very profound, with individuals who are adults potentially being hosted in settings for children and young people, which is of course completely undesirable, unacceptable, and an area that we would all want to see remedial action taken in.

The point I would make on age assessment is that clearly this is an established approach that is being delivered in many of the European Union countries presently, and obviously the European Union also has an involvement in these matters, as I understand it. At this stage, we have

not made a firm decision about the sorts of technology and scientific methods that we would seek to utilise. We think it is right that we established the scientific committee to look at this properly as part of the NAAB and that it has the opportunity to make some concrete recommendations about the way forward.

One thing I hope I can give the committee some reassurance on is that the age assessment scientific methods would not be the only tool that would be used. This is very much about a tool in a wider package of measures to assess age, working alongside, for example, the Merton assessments that are currently undertaken, and of course trying to utilise and to learn from some of the best practice that is out there, because there are local authorities that do this work very, very well at present and there are local authorities that find this very challenging.

To go back to your question, it is right that the scientific panel has a look at this and makes some recommendations. This is not unprecedented; it is already happening in many of our neighbours' countries. I think we can learn some lessons from them, but I also just want to reassure the committee that our intention is not that age assessment would be the single determining factor. We very much see it as part of a wider package of measures to try to determine the age of individuals more accurately where there is a dispute about the age.

Q54 Joanna Cherry: Minister, the UNHCR representative told us that the United Kingdom so far has been a very valuable champion for refugees and asylum seekers, but she expressed concerns that if this Bill was passed it could weaken the United Kingdom's advocacy abroad, as the UK would be "seen as not willing to do at home what it would be asking other countries to do". Do you think that this Bill will damage the United Kingdom's reputation as a global champion for refugees and human rights?

Tom Pursglove: I think the inverse to that is true. If we continue to allow these perilous channel crossings with horrendous loss of life, like we saw last week, that is hugely damaging to the United Kingdom's credibility on the global stage in these matters. I think there is a moral obligation on the UK Government to collaborate with our partners, to work upstream and to improve our domestic position to be able to tackle that issue head on.

I would make the point that despite some of the disagreements with the UNHCR in relation to some of the measures in this Bill, we have a very strong relationship with the UNHCR. I had a very productive meeting with the representative to the UK a few weeks ago, and I am always grateful for their insight and their input. We do not necessarily always agree, but I think that having those honest conversations is very valuable.

I would again point to the work that we have done in region with the UNHCR over a number of years now that is world-leading best practice, where we have taken some of the most vulnerable people from the region and resettled them in the United Kingdom and transformed their lives in

taking them away from harm's way. That is the sort of best practice that we should be proud of.

To answer your point directly, Ms Cherry, that is exactly the sort of leadership that I think the UK should be showing by delivering hugely effective, comprehensive, safe and legal routes in exactly the way we have done in the past and will continue to do.

Joanna Cherry: I do not think anyone would dispute that the refugee resettlement schemes are a good thing, but we are not talking about that. We are talking about how this Bill deals with asylum seekers who arrive at our shore. Do you think that the offshore processing at Nauru has enhanced Australia's reputation as a champion for refugees and human rights?

Tom Pursglove: Where perhaps you and I would disagree is that I consider that these matters are not in isolation. I would argue that the approach that we take is holistic, that it is right to focus our energies and our effort on delivering safe and legal routes, and that that directly impacts on the approach that we take in this country.

Joanna Cherry: You have not told us about new safe and legal routes today. You have had the opportunity to do so and you have not done so.

I want to go back to my question: one of the things this Bill proposes is offshore processing. Just looking back to what the UNHCR representative said about Australia's practice of offshore processing at Nauru, and all the publicity that has surrounded it and all the evidence we have heard about the mental health impact on people, do you think that that has enhanced Australia's reputation as a champion for refugees and human rights?

Tom Pursglove: I would say two things, building on the point that these matters do not exist in isolation. I am very proud of the schemes that are currently in operation—for example, the BNO Hong Kong route; the global resettlement scheme; the work that we did over the summer in relation to Afghanistan, and with more to come, in line with our undertakings; and the fact that we have provided family reunion for 39,000 people in the last six years. That is a significant contribution, which shows UK leadership on a global scale.

On the point about Australia, I am not going to get into a debate about the merits or otherwise of the Australian approach, but I think you have heard from me today that the approach that we are endeavouring to take through the Nationality and Borders Bill, and which we reserve our right to pursue, is markedly different to the approach that the Australian Government took that you refer to.

Joanna Cherry: Let us come at it in a slightly different way. A number of people have given us evidence, both oral and written, that aspects of this Bill breach the United Kingdom's human rights obligations under ECHR and our international treaty obligations under various refugee and maritime conventions. I know you do not accept that, but given that a

number of people think that that is the case, do you think that will enhance the United Kingdom's reputation as a global champion for refugee and human rights?

Tom Pursglove: I think individuals in organisations are of course entitled to their view. We have a very clear view that the policies that we are progressing are entirely compliant with our obligations under the refugee convention and ECHR. In that sense, I am satisfied that we are proceeding in a manner that is entirely in keeping with our obligations.

Chair: Thank you, Minister, and your officials for answering our questions at length and so patiently. I thank you for your evidence. I reiterate that we produced this report on the Bill. The Bill is coming back to the Commons for further consideration next week. You have given assurances that are obviously absolutely in good faith about not wanting to do anything that would cause any further loss of life in the channel.

I would urge you to look at this committee's proposals about the pushback of refugees at sea, which you have allowed for in the Bill, and that those safeguards are put in the Bill so that it is absolutely clear that, if there is a danger that what the Border Force is doing at sea would cause further loss of life during the pushback, it is not done and that is not your intention. I think that should be put in the Bill. We have drafted amendments. I hope we can commend those amendments to you and that you will look at them seriously before you come back to the House of Commons next week. Thank you very much indeed for your evidence and to your colleagues, Daniel Hobbs and Dan O'Mahoney.