



HOUSES OF PARLIAMENT

Joint Committee on Draft Modern Slavery Bill

Oral evidence: [Draft Modern Slavery Bill](#), HC [1019], Tuesday
11 February 2014

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Members present: Mr Frank Field (Chairman), Baroness Butler-Sloss, The Lord Bishop of Derby, Baroness Doocey, Baroness Hanham, Baroness Kennedy of Cradley, Lord McColl of Dulwich, Lord Warner, Fiona Bruce, Michael Connarty, Fiona Mactaggart, Mr John Randall, Mrs Caroline Spelman and Sir Andrew Stunell

Questions [434-488]

Witnesses: **Professor Lucia Zedner**, Faculty of Law, University of Oxford, and **Professor Liora Lazarus**, Faculty of Law, Oxford University, examined.

Q434 Chairman: Welcome. It would help all of us to hear you properly if you could keep your microphones on; the rest of us will put ours on when we speak. *[Interruption.]* I have been told that you do not have to worry—great. Please identify yourselves for the record.

Professor Zedner: I am Professor Lucia Zedner of the University of Oxford.

Professor Lazarus: I am Associate Professor Liora Lazarus of the University of Oxford.

Q435 Baroness Hanham: Thank you very much for coming today. As you know, we are looking at part 2 of the Bill, which deals with

the new orders that are being brought forward for these particular offences. There is already a gathering—a sort of confetti—of civil preventive orders for different types of offences. How do the orders in this Bill compare with existing preventive orders? The area I have quite a lot of concern about is the risk order, where you are putting an order on somebody without them necessarily having done anything. How do you think this would compare with the other civil orders that are around? It would be very useful if both of you could put on your thought hats and give us some help with that.

Professor Zedner: I should explain that we have a division of labour. I will talk chiefly about the form and operation of the civil preventive orders. Professor Lazarus will talk chiefly about the human rights aspects that they raise.

As you rightly said, the various orders in the Bill mimic an array of existing orders. The first orders, under clause 11—the slavery and trafficking prevention orders on sentencing—are modelled on a series of extant orders. It is questionable whether one would even want to consider those as being civil preventive orders. Since they apply only on sentencing, they result from criminal proceedings and do not raise as many concerns as those that can be imposed following civil proceedings.

The issues arise in respect of the other orders that can be imposed in respect of civil proceedings alone. There are extant precedents for the orders under clause 12—the slavery and trafficking prevention orders on application. One can see those in other existing legislation—for example, the violent offender orders under the Criminal Justice and Immigration Act 2008.

The concern that arises in respect of all of the orders that can be imposed as a result of civil proceedings is that, whereas the very first of these civil preventive orders, the ASBO, had as its target the prevention of conduct—in that case, the prevention of antisocial conduct—by the offender, the terms of reference here are much broader and entail the prevention of harm with a view to protecting the public, whether it be general members of the public or specific members of the public who have been identified. That raises real questions about certainty. It satisfies the necessity test—Professor Lazarus will have more to say about that—but I am not sure that saying that the conduct to be prevented is that which has implications for the protection of the public is sufficiently certain to provide individuals with notice as to the conduct that they need to avoid in order not to fall foul of the order. Arguably, perhaps, it does not therefore satisfy the rule of law requirements as to legal certainty.

You mentioned the issue of the risk orders, in particular. Again, they have a precedent in the risk of sexual harm orders under the Sexual Offences Act 2003, which, as you probably know, are to be amended by the provisions of the Anti-social Behaviour, Crime and Policing Bill. The chief difference is that there is a reduction of the requirement, so there is

no longer a requirement of “serious harm” but a requirement simply of “harm” by the offender. The sexual risk orders in that Bill constitute a direct precedent for the provisions of this Bill. Of course, that raises a series of questions about our capacity to predict risk accurately, or at least with sufficient accuracy to justify the level of coercive intervention that could be imposed by the orders.

Q436 Chairman: Liora, are there any comments you want to make on that?

Professor Lazarus: No. I have stuck to my brief, which concerns the human rights questions.

Chairman: Very good. You are the first witnesses that have.

Q437 Baroness Butler-Sloss: That was splendidly explicit and brief, for which we are very grateful. Concerns have been expressed about the effect of these prevention orders on fair trial and civil rights. We are very interested to know as a Committee what we should be looking out for in our scrutiny of part 2 of the Bill.

Professor Lazarus: To start with, I want to make it clear that there are very clear positive obligations on the UK, both in international law and under the European Convention on Human Rights, as regards the criminalisation, policing, prosecution and prevention of human trafficking. That obligation gives rise to a range of varied requirements. Of course, the Bill goes a long way towards fulfilling those obligations.

There is one point I would like to make just on that issue. There is quite a lot of reference to the extent to which positive rights need to be fulfilled in this regard and to the fact that article 4 places certain requirements. First, the European Court of Human Rights has made quite explicit that these obligations should not be too burdensome. As a result, it has usually created a specific obligation in the context of a specified individual; I will come back to that later. On the question of whether or not in the fulfilment of that positive obligation to fulfil article 4 you can violate other rights, the court is very clear—in *Osman* and in other cases—that you cannot, so the balance between the preventive obligation, which is what the preventive orders fulfil, and other civil rights has to be struck.

On that question, given that these orders will bear upon a number of different rights, the first question you need to ask yourself is whether or not this set of provisions fulfils the requirement of legal certainty. There is a range of cases with regard to what convention case law would require with respect to legal certainty. I have plenty of that material, which I will submit in written evidence. For the purposes of being brief and succinct, I just want to point out that there are a number of points in the second

part of the Bill where greater clarity could be brought about. I would like to suggest some tightening-up amendments.

The STPOs—I got my tongue around these orders just over the weekend, while flying back from Australia—do have a requirement of a previous offence or at least some behaviour with respect to a previous offence. The STPOs on application also include—retroactively, I should add—an offence you might have been cautioned for; that also applies extraterritorially. The first point that I would like to suggest, which is potentially quite broad when you think about the range of different systems we might be addressing, is that you might like to insert the term “formal caution” there, just so that we have some kind of clarity about what is on the record.

The really worrying lack of clarity, or opacity, is in the STROs, where the only requirement and clarity is in the clause, which is in all of those others, in relation to necessity. In order for necessity to do the work that you want it to do—of course, it is welcome that the word “necessity” is there, because it invites the idea of proportionality—you need some clarity on what risk factors are involved. I am finding it hard to find in the Bill, as it is currently composed, where those risk factors are and where we might find someone who might advise on what they are.

I have suggested some amendments in written evidence, which you can go into, but you may wish to think about inserting the idea of a “real and immediate risk” that the defendant will commit an offence, making it necessary to impose the order for the purpose of protecting persons generally, or particular persons. That language would be in line with article 4, in the sense that the positive obligation usually requires that real and immediate risk. Those are the threshold requirements. You may also wish to tighten up on the Secretary of State guidance clauses in the Bill as regards whether the Secretary of State might provide guidance on what those risk factors are.

In respect of the effects clauses—clauses 14(2), 16(2), 21(2) and 24(4)—all I would say is that the work that can be done by the necessity condition in those clauses would be better served by clarity in the threshold conditions. I have noticed that there is absolutely no specification as to what might be included in those orders. From the perspective of legal foreseeability, we may wish to see greater clarity. In the Terrorism Prevention and Investigation Measures Act, for example, there is quite a lot of detail on what might be included in the order. The wording as it currently stands is very unclear; basically, what is included in the order is what is included in the order, subject to the necessity requirement.

A final point on the clarity issue is whether or not you wish to apply the same wording of “immediate risk” or “necessity” to the interim orders. At the moment, we have only the question of whether the court considers it just to impose them.

To get one other point out of the way, I have assumed—although I have included this in the written evidence—that we are not engaging article 5 or article 6(2) and (3) of the convention in this context. The reason I have assumed that—there is nothing in the Bill to give us that information—is that we must assume that the orders themselves would not be of sufficient intensity to be defined as a deprivation of liberty for the purposes of article 5 or, for that matter, to be defined as a penalty for the purposes of article 6(2), therefore moving it into the criminal category, but I do elaborate on the point of what would happen if that were to apply. That is my short summary of the issues.

Q438 Baroness Butler-Sloss: It is extremely helpful. Obviously the written evidence that you will give us, with examples of how this could be tightened up, will be even more helpful. We have to look at the balance between the directive, and the obligations under that, and the obligations under the human rights convention, don't we?

Professor Lazarus: You do.

Q439 Baroness Butler-Sloss: Could you elaborate a bit for us in your written evidence on where we should be looking for what may be, in some ways, a potential conflict between the two?

Professor Lazarus: I will. I have drafted the written evidence, but I am happy to elaborate more on what that balance would include.

Baroness Butler-Sloss: Thank you very much.

Chairman: Both those pieces of evidence have been so helpful that they may make some of our questions less relevant than they were before.

Q440 Lord McColl of Dulwich: Can these prevention orders be justified if the person has not been convicted of, or cautioned for, a previous offence of the same type?

Professor Zedner: In so far as the orders are preventive orders, not punitive, which goes back to Professor Lazarus's point, it is questionable whether there needs to be a conviction or a caution—or, indeed, where there has been a prior conviction or caution, whether there needs to be any necessary relationship between that conviction or caution and the provisions in the preventive order—because what motivates the preventive order is the harm to be prevented, not the prior offence.

On the one hand, the justifications for these orders as they have developed over the last 10 years or so have been multiple. They include the fact that greater protection needs to be given to victims or putative

future victims of the conduct to be prevented. These orders therefore have the effect of placing something like a buffer zone or cordon sanitaire around the potential offender, in order to limit their movements and opportunities for infliction of harm or to prohibit them from engaging in certain types of activity that may entail harm or be a prelude to harm. To that extent, there is no necessary relationship with a prior conviction.

They have also arisen—and they arise in this case—where it is particularly difficult to catch the nature of the wrongful conduct within the limits of the criminal law, particularly where the harm itself lies in aggregate forms of behaviour or a course of conduct over time, where individually the actions may not amount to sufficient harm but in toto they do.

There are clear justifications that provide for state intervention without resort to criminalisation and ahead of wrongdoing. There are also pragmatic considerations that are motivating this Bill. They are broadly evidential ones—namely, the difficulty of getting witnesses to participate in criminal proceedings. The Criminal Evidence (Witness Anonymity) Act 2008 makes a significant move towards creating a system that respects the rights of both defendants and victims, but there is still a problem of getting victims to testify.

The caution that I would raise is that, in so far as they are genuinely preventive orders, they are predicated on our ability to predict what the harm to be prevented is and to do that with sufficient certainty. They are also predicated on the assumption that the subject of the order cannot be trusted to comply with the law generally and needs the extra threat that is entailed in the preventive order, so the deterrent effect of the criminal law alone is said not to be sufficient. The difficulty to my mind is that the set of prohibitions that the court is permitted to impose under the terms of each of the orders as specified in the Bill apply only to one person and render criminal conduct that would not be criminal if carried out by you or me. To that extent, they amount to a form of personalised criminal law—that is, the conduct becomes criminal when committed by this individual and this individual alone. That is where real concerns about what one might call under-criminalisation arise.

Q441 Lord McColl of Dulwich: Thank you very much. I will have to read that very carefully because of my lack of understanding. It has nothing to do with your presentation.

Professor Zedner: I would be very happy to put it in written form, if that would be helpful.

Q442 Baroness Butler-Sloss: We will have a transcript. The explanatory notes to the Bill state that the criminal standard of proof

applies to both the prevention and the risk orders. To what extent are those orders therefore to be considered to be civil orders rather than criminal orders? It is quite an odd set-up. Members of the Committee, including myself, would find it helpful if you could comment on that.

Professor Zedner: I am happy to do so. The criminal standard of proof applies, but the proceedings in the first part of the order are civil. Aside from the provisions in clause 11, which I would suggest are for criminal preventive orders, because they are applicable only on sentencing, we have been talking about all the orders as if they were civil preventive orders. I think that is questionable. We might better think of them as civil-criminal hybrid orders, in so far as the first part of the proceedings can be pursued as civil proceedings, according to civil rules of evidence, yet the conditions that are imposed constitute a set of restrictions—we hope not deprivations of liberty—on the individual subject to them, breach of which is a criminal offence.

We have a two-step proceeding, if you like. There is a prior proceeding that is civil, albeit to a criminal standard of proof, following McCann, House of Lords. However, as you can see on the face of the Bill, breach of any of the terms of the order results in criminal sanction of up to five years' imprisonment in respect of most of the provisions, other than the risk orders, in respect of which a two-year maximum criminal sentence applies.

It seems to me that that is a very great delegation of parliamentary authority to the courts, in so far as the courts are then entitled under the terms of the order to impose any conditions that they deem necessary for the purposes of protecting persons generally, or particular persons, from physical or psychological harm caused by the defendant and so on. That delegates to the court the right to impose whatever prohibitions can be deemed necessary.

We should note, perhaps, that that applies even in respect of conduct that Parliament may on a previous occasion have deemed insufficiently serious to merit a sentence of imprisonment. For example, in respect of the ASBO, notwithstanding the fact that Parliament has determined that soliciting and begging should not attract a sentence of imprisonment where conditions of an order are breached, under an ASBO that can attract a sentence of imprisonment of up to five years. Exactly the same is possible here. Not only are we seeing a delegation of authority to set prohibitions to the court, but we are seeing permission being given to the courts—and, indeed, to the lower courts—to impose sentences of imprisonment on breach even where Parliament has decided that this is not conduct that merits a sentence of imprisonment.

Q443 Baroness Butler-Sloss: Are there orders under other Acts of Parliament where there has to be a criminal standard of proof in what is a civil matter?

Professor Zedner: Indeed. Following McCann, which was an ASBO case, all of the existing criminal preventive orders, civil-criminal hybrid preventive orders and civil orders require the criminal standard of proof.

Q444 Mr Randall: The Bill has in it provisions for interim orders to be granted. Do you have any particular concerns in relation to those interim orders with regard to the evidential burden and potential restrictions or sanctions for breaching them?

Professor Zedner: Not many.

Q445 Mr Randall: A few will do.

Professor Zedner: Okay—a few. Again, they have a precedent in respect of the sexual offender prevention orders and the risk of sexual harm orders under the Sexual Offences Act 2003, so we already have such orders on the statute book. My concerns arise only in respect of the question of whether they are genuinely interim; I will explain why in a second. I am happy in so far as the fixed period for which they are set—they have to be set for a fixed period—is proportionate to the harm to be prevented and is the minimum necessary.

I am also particularly concerned that they are interim in the sense that the proceedings in the main application are being pursued, and are being pursued expeditiously. The reason why I am concerned is that if we look at the terrorism prevention and investigation measures under the Act of the same name, in respect of which a requirement of an ongoing investigation applies, in practice, my sense is that this is very difficult to police, or, rather, that the ongoing investigation may in fact be no more than nominal—that is, it suffices if the police attest that they are still engaged in an investigation.

A further concern has arisen in respect of TPIMs that I think might also arise here—namely, that, in so far as the conditions imposed by the TPIM militate against the collection of evidence and, therefore, against a successful prosecution, they act counter to the purpose of the legislation, which is to try to steer cases involving serious offenders into the prosecutorial route or to give priority to prosecution. The same concerns might arise in respect of these interim orders—namely, if you impose sufficient conditions on the order that the case, in effect, goes cold, which is very likely, mounting a successful prosecution could become more difficult, not less.

Q446 Mr Randall: Why do you think the investigation would go cold?

Professor Zedner: In so far as you are trying to limit the ability of the individual to engage in the harmful or criminal activities that it is the very purpose of the order to prevent, they are not likely to be engaging in the kinds of activities that would allow you to gather future evidence. One good reason why you have not prosecuted in the first place is that you do not have enough evidence that they have committed the act you would wish to prosecute them for. If you want to gain further evidence as to their activities, you are less likely to be able to do so once they have—

Q447 Mr Randall: I may be being very dense here, but it seems to me that you are saying—although I am sure you are not—that you should not put on the interim order so that they can carry on offending and you can then catch them.

Professor Zedner: That is the sort of argument that the independent reviewer of the terrorism legislation, David Anderson, has made in respect of TPIMs—namely, that, once you put a TPIM on a terrorist suspect, the case goes cold and it militates against successful prosecution. I am not saying that one would want—

Q448 Mr Randall: But isn't it so that they can then look more at the evidence, while they are investigating—so that they can go through all the bits they have, which they do not have the time to do?

Professor Zedner: In that case alone, I think it is unproblematic. In the case where the reason why there has not yet been a prosecution is that there is not a sufficiency of evidence, you are in trouble.

Professor Lazarus: I would like to add to that and to repeat the point that I have concerns about the clarity of the interim orders. If there is a really serious risk that someone will be harmed by this particular individual's activities or that this individual will commit a crime, it seems to me that there should be such a criterion. The amendment that I have suggested is that there should be some kind of immediate risk. I do not see any other argument for imposing the interim order, unless you wish to go on a fishing expedition. In the context of the framework within which these orders are being imposed, it is important to make that explicit.

Q449 Mr Randall: As you said yourself, one of the problems is that a lot of the victims are very reluctant to come forward. You may need the time afforded by an interim order in order to try to assure the victims that something is being done and, therefore, there is merit in their

coming forward. Do you not see the point of having an interim order to give them a little bit more confidence that action is being taken, as otherwise they will be a bit nervous?

Professor Lazarus: I do not see the two as contradicting each other, because the confidence about the victim will only be increased if there is a danger to the victim. I do not see the problem of including a requirement that there is some kind of risk involved in the interim order. I think they would work in tandem.

Q450 Chairman: Thank you very much; that was brilliant evidence. After you have fired these Exocets, do you think that part 2, even if it passed Parliament, would ever operate?

Professor Zedner: The provisions in the legislation look sufficiently similar to an array of existing provisions for preventive orders. Whether or not the courts will use them, of course, is an empirical and pragmatic question one might want to look at. I would be very happy to provide details of the use of orders. Last year, there were nearly 1,500 antisocial behaviour orders and nearly 2,000 non-molestation orders. If you look at the sexual offences prevention order, we are down to 2,500. When we go down to foreign travel restriction orders—there is a travel restriction order in the Bill—there were 14 last year. There were 63 serious crime prevention orders last year and 10 TPIMs. The higher the level of seriousness of the orders, the less likely it is that the courts will use them in practice.

Chairman: Thank you very much. We are very pushed for time, but you have done a brilliant job for us. Thank you for the care you took in co-ordinating.

Examination of Witness

Witness: **Rachel Robinson**, Policy Officer, Liberty, examined.

Q451 Chairman: Welcome, Rachel. Might I ask you to identify yourself for the record?

Rachel Robinson: Good morning. I am Rachel Robinson. I am a policy officer at Liberty.

Q452 Chairman: Would you like to say something general about the Bill?

Rachel Robinson: Modern slavery is an issue Liberty has been concerned with for a very long time. We are an organisation concerned with civil liberties, so preventing forced servitude and compulsory labour

effectively is really at the heart of what we want to do. We welcome very much this attempt to grapple with what is a really pressing issue. We welcome attempts to consolidate existing criminal offences and to clarify the law. We have no problem in principle with longer sentences to recognise the very serious and grave nature of the offence involved. We also recognise the wider inclination to look at issues around victim protection and think that is an extremely important part of this very difficult, complex, multifaceted issue.

We are here principally to talk about part 2 of the Bill, which relates to an issue Liberty has been engaging with for a very long time—the issue of civil orders. We have a number of very significant concerns, which vary according to the different orders involved, but I would like to start by welcoming the attempt to grapple with this problem and by setting out how much Liberty is concerned to deal with it effectively.

Q453 Fiona Mactaggart: We know about Liberty’s long-standing concerns about using civil orders in these sorts of context. There are various types of civil preventive orders that exist in relation to differently severe offences. Could you try to identify how the orders in the draft Bill compare with existing orders? Do you think that the severity of this offence mitigates Liberty’s traditional objections to using civil orders in these circumstances?

Rachel Robinson: It is very important to look at this in the context of the wider landscape of civil orders. For more than a decade, we have seen orders grow up for everything from the most trivial annoying behaviour to the most absolutely serious and worrying criminal offences—from nuisance to terrorism. We believe that these kinds of orders do not function well in any of these kinds of situations. We feel that they are a real departure from the orthodoxy of prosecution and that often they operate as an impediment to effective prosecution. While we have concerns about the civil liberties implications of applying punitive sanctions to people who have not been convicted within the criminal justice system, we equally have concerns that these kinds of orders are not an effective way of dealing with the issues involved.

In a sense, as the alleged offending behaviour gets more serious, that concern becomes more pointed. It is a concern that we have raised consistently in relation to terrorism prevention and investigation measures, as previous witnesses discussed, and it is a concern that we really have here. As far as we are concerned, a kind of civil penalty in the community is not sufficient to deal with the kind of behaviour we are talking about here. Really that should be addressed within the criminal justice system.

Q454 Fiona Mactaggart: I think we all agree with that, but we know that the criminal justice system is ineffective at addressing it because of the difficulty in getting evidence.

Rachel Robinson: We certainly do not seek to oversimplify this or to suggest that there are not very real problems with ensuring that witnesses feel able to come forward and all the other, wider issues around that. We would encourage the Committee in its deliberations to think about the wider social picture. I understand that the Committee has been addressed by organisations that work with vulnerable people in this sphere about, for example, the implications that the removal of the specific domestic worker visa might have for the ability of people to change employers and, therefore, bring to light a situation that is exploitative. We absolutely accept that that is the case.

What we are really concerned about here is something we have seen time and time again, from our perspective, in other contexts. If you alert somebody to a suspicion or tip somebody off that you are on to them and then leave them at large in the community, with a sort of interim measure—I am talking not just about the interim orders here but about some kind of measure short of prosecution that restricts liberty in various undefined ways—you do not really grapple with the problem. What we believe can sometimes happen is that it is perceived that the case has been dealt with, that there is no need to go ahead with a formal prosecution and that the matter is in hand. That can divert resources and attention away from effective prosecution in these kinds of contexts.

Q455 Fiona Mactaggart: Yet some of these prevention orders are quite effective in, for example, protecting children in Thailand from rape by paedophiles who want to travel. How do you think that risk orders, for example, can work? Do you think there is any role for such an order, ever, in protecting people from this particularly gross abuse?

Rachel Robinson: We have very deep principled and pragmatic concerns about the risk orders. We have far fewer concerns about orders that are attached to sentence. If we are talking about something that is akin to a licensing condition or being put on the sex offenders register, for example, after a conviction for a specified offence, we do not have a problem with that being part of a sentence, linked as it is to the criminal justice system and to effective prosecution. I am afraid that we do have a very big principled concern with the risk orders, because they are really the archetypal example of what I am talking about in terms of civil orders running parallel to the criminal justice system, potentially diverting attention away and leaving people who may be extremely dangerous as a real danger to others in the community.

We understand that there is a process by which investigation has to take place and that the police have to be involved in very complicated investigations that are very sensitive and difficult, but we also understand that they have a lot of traditional investigative techniques at their disposal. We know that they can gather intelligence in very sophisticated ways in targeted cases; there is a framework in place for them to do that. By making somebody aware of an interest you may have in them in this area, you are effectively impeding the investigation and diverting resources. Those are our real, principled concerns. That is the core concern with the risk orders. We have other issues with the specifics, and there are ways in which the orders could be improved, but we would never be satisfied with that model of order.

Q456 Mrs Spelman: You will have heard us ask the previous witnesses some of the same questions, so you will have had a chance to think about those questions—also in the context of their replies. I would therefore like to ask you what we should be looking out for in part 2 of the Bill, because that is where this whole line of inquiry is heading. We are clear that you have concerns about fair trial and civil rights in respect of civil preventive orders, but we have to get practical. What should we be doing about part 2 of the draft Bill?

Rachel Robinson: I will run through the different orders briefly and suggest where we consider them to be salvageable in Liberty's terms. I stress as well that our concerns are not only from the perspective of fair trial rights and the rights of those who are potentially subject to punitive sanctions, but also very much from the perspective of effective prosecution. Liberty has argued on a number of occasions, in a number of different forums, about the obligation of the state to tackle effectively issues such as forced servitude—the positive obligations on issues such as the right to life and freedom from inhuman and degrading treatment—so that is very much on our agenda.

I turn to the specific orders. On the clause 11 slavery and trafficking preventing orders, we have no problem in principle with imposing restrictions on liberty in the community as part of a sentence, handed down by a judge at the time when other sanctions are handed down, within the criminal justice system. Our only real and obvious concern with clause 11 is that we would like to see, as I believe Professor Lazarus discussed earlier with the Committee, some more specificity about the order and the prohibitions that can be included in it. We would make the parallel with terrorism prevention and investigation measures, which are also for very serious offending or suspected offending behaviour. There we have a list of specified things that can be imposed on the individual. We think that the same should apply in this context. I know we have one example in the foreign travel prohibitions, but we believe there should be

an exhaustive list of orders. Obviously, there will be flexibility within that list, but there should not be outside of it, so to speak. Other than that, we do not have principled concerns with a provision such as clause 11.

We further think that there should be clear opportunities for review. We know that the Bill provides for review to be sought. We think that is extremely important, particularly in the case of those individuals mentioned at clause 11(1)(b) and (c), where there is potentially some element of a very serious and debilitating mental health condition that has led to the action taking place. In those contexts, it is very important to be aware of the potentially transient nature of mental health conditions, when treated properly, and the fact that an individual may no longer, in effect and practically, pose a risk after a given period of time. I ask the Committee to bear that in mind when considering the clause.

Clause 12 presents more problems for us, in that it is a step further removed from the criminal justice system. We understand that it has a tie to the criminal justice system, in that somebody has been either convicted of an offence of a specified nature in this country or what is determined to be an equivalent offence abroad. I will talk very briefly about those convicted of an equivalent offence abroad in a moment. On the core of clause 12, we are concerned that there is no temporal link, for example, to the conviction and that it takes us a step further away from criminal prosecution. Here, arguments start to arise around choosing a separate channel, in effect, to deal with this kind of behaviour, as opposed to prosecution at an early stage or intelligence and criminal investigations, which we have always used even for the most serious kinds of offending.

We would like to see this tied more to effective prosecution, if at all possible. That could include things like tying it more to a particular time period. We can all imagine how, potentially, as we move further away from the time at which an offence was committed, it may become less sensible to view that as a pertinent or relevant factor. That is certainly one consideration.

In terms of those convicted in another jurisdiction, we have some fairly obvious concerns that we have raised in other contexts—for example, around extradition. In other parts of the world, there are very variable criminal justice systems, standards of justice and fair trial protections. We would like to see recognition of that built into the Bill, if at all possible. It is an obvious fact. We understand the international dimension to offending of this nature and imagine that this clause is an attempt to deal with that, but a certain sensitivity to those kinds of variations is probably very necessary. An obvious example that springs to mind is the extent to which other jurisdictions will recognise—and recognise completely—the difference between somebody who is victimised or exploited in this whole equation and somebody who is committing a criminal offence and should be considered in that vein.

We have many more concerns about clause 12 than about clause 11, but many more concerns still about the provisions in clause 21, on risk orders. It is very difficult for me to think of means I can give the Committee of improving this in a way that we believe will help to facilitate effective prosecution and respond to other concerns we have around the role of civil orders in this type of area. Really, our concerns go to the very heart of this provision. I do not think there is much more I can say on the issue.

Chairman: That is really helpful.

Q457 Sir Andrew Stunell: The reality is that many of these cases will be decided by whether or not wobbly and vulnerable victims and witnesses are going to stand up in court. The CPS will very often say, "We couldn't possibly stand that up in court," yet if one had a lower, civil evidence level, it would be absolutely obvious that this person had been up to no good. Is it Liberty's view that in that case the person should walk away from the situation with absolutely nothing imposed by the courts?

Rachel Robinson: If you will forgive me, I think it would be a very sad situation indeed if we accepted that as the best that our criminal justice system can do for victims. There is a whole range of other things we can do in a wider context. I understand that others who have given evidence to the Committee and who work immediately with vulnerable people in this context have spoken about those at some length. We should be very careful about writing off our criminal justice system in that way.

There are ways in which we can make it possible for victims to come forward, make them feel safe and secure, make sure they have effective legal representation, and make sure that they know they will be properly compensated and will have adequate time to recover from their ordeal should conviction occur and it be established that they have been exploited in this way. That is really where the focus of our attention needs to be, rather than on manipulating, twisting and distorting our response to this really serious behaviour, which should be nothing but criminal.

Only relatively recently have we gone down this route of civil orders for very serious or criminal behaviour; it is a recent intervention. The ASBO innovation was a response to very specific concerns at the time that individuals should not have to go through the civil justice system to seek injunctions against antisocial behaviour because it was very laborious and difficult, and that the state should get involved and do that for them in that very specific context. Since then, this has bled out into a number of other areas that could never really have been envisaged by those who initially pioneered this way of proceeding.

Q458 Sir Andrew Stunell: You are saying that in your view there would never be any justification for imposing a risk order.

Rachel Robinson: We do not think that risk orders will be helpful in securing prosecutions, which are in the absolute interests of victims, society at large and the global community. We do not think that they are the right way to proceed. I would like to draw attention to the breach rate for antisocial behaviour orders, for example, which is very high indeed; I am afraid that I do not have the statistics to hand, but I can certainly send them to the Committee. The figure for the year 2010-11, which is one of the most recent statistics we have, was 57%. For TPIMs, it is obviously lower, but far fewer of those orders are made and they are more high profile. Again, we have seen very obvious and prominent examples of breach. If someone is determined to commit this kind of offence or is sufficiently disrespectful of laws and ethics to go down this route, we doubt very much that these kinds of civil orders, which leave somebody in the community but subject to certain limitations on their behaviour, will prevent them from behaving in that way.

Q459 Sir Andrew Stunell: So in your view it is a criminal conviction or nothing.

Rachel Robinson: It is a criminal conviction or proper criminal investigation to get to the point at which we can resolve this issue properly in the criminal justice system and impose the kind of sanctions that this behaviour demands.

Q460 The Lord Bishop of Derby: I can understand your argument in terms of looking at past behaviour and how you evaluate and judge it, but one of the things here is patterns of behaviour that might lead to what our previous witnesses called predictive behaviour. How do you think a responsible society can deal with those kinds of patterns and predictive behaviour?

Rachel Robinson: It is a very difficult question. Not for a moment are we trying to suggest that this is very simple. I am aware that this kind of behaviour, which falls short of the actual offence but is indicative, perhaps on the basis of evidence, of a connection, has been a focal point for discussions. I am struggling, and Liberty as an organisation struggles, to understand what kind of behaviour we are talking about that will genuinely be serious enough to indicate that somebody is ready to commit an extremely serious crime of this nature but will not fall within the criminal justice system or be a real impetus for a thorough investigation, monitoring and all the things that we talk about and have never objected to in the case of individual suspects—really concerted, resource-intensive investigation of that kind—to make sure that we capture such behaviour. We think our criminal justice system is

broad enough as it stands to capture preparatory acts as well. What I am trying to say is that we struggle to envisage the kind of behaviour that cannot be dealt with in one of those two ways.

Q461 Baroness Kennedy of Cradley: We want to explore a little bit about the prevention and risk orders in relation to children. How would Liberty approach that?

Rachel Robinson: In relation to their being imposed on children?

Baroness Kennedy of Cradley: No, to protect children.

Rachel Robinson: I have to say that it is the same arguments. We believe that when it comes to child protection—and protection of other vulnerable people, with which we are concerned throughout the Bill—prosecution is the way that we can most effectively protect people and ensure that that protection is meaningful and long term and does not just push the issue downstream a little bit and leave people at large, if they are really determined and want to pursue this kind of really reprehensible behaviour. We think that is the way to deal with it.

We do understand the vulnerability of the people involved. In fact, Liberty has represented people before. The persecutors of our client, Patience Asuquo, were not prosecuted under the relevant offences because those did not exist at the time. That was why Liberty was so concerned to lobby for section 71, as we did back in 2009.

We absolutely understand the role that article 4 plays in our human rights regime and the need to protect people from slavery and forced servitude, and particularly the vulnerability of children in this context. We know that the statistics show that children are affected very considerably by this issue. We believe that the best way to protect them is by a multifaceted approach, but—in terms of the criminal justice system—by effective prosecution and investigation. Outside that, and in order to facilitate it, there should be effective mechanisms in place to ensure that victims are treated fairly, feel able to come forward, are treated with respect in the criminal justice system and feel safe and secure in coming forward. Those are the real ways to tackle this issue.

Q462 Baroness Kennedy of Cradley: So if there was an immediate risk to a child, you still do not think that the order is the way to address that.

Rachel Robinson: With the greatest of respect, if you can determine that there is an immediate risk to a child, we think that there will be

probably be grounds for launching a prosecution or for a very strenuous investigation into those concerns.

Q463 Baroness Butler-Sloss: I wonder whether you can help us with these prevention orders and, possibly, risk orders against those under the age of 18.

Rachel Robinson: Are you asking about the use of orders against those under 18?

Baroness Butler-Sloss: Yes—against teenagers, in particular.

Rachel Robinson: I cannot do much more than reiterate the points I have made about—

Baroness Butler-Sloss: It is the same point, isn't it?

Rachel Robinson: It is.

Chairman: Elizabeth, do you want to make a declaration?

Baroness Butler-Sloss: Yes, I need to make a declaration. I happen to be the mother of the chairman of Liberty.

Chairman: And we still allowed you to ask a question about minors—great.

Q464 Michael Connarty: I have been a Liberty member and supporter for a long time. I take all the points that have been made about ASBOs and the number that are broken, but in something as serious as this, if there is a network of very skilled criminals exploiting people and the criminal fraternity are smarter than the police—as they often are—in avoiding getting enough evidence to bring them to court, what do you do to prevent the victims from being continually victimised? It just seems that the criminal remains at large, exploiting and abusing the people who are in the slave category.

Rachel Robinson: With respect, I would be very concerned about accepting that for criminal investigations by our police service. It is really important that investigations are properly resourced, that we have a police service we can rely on to tackle this kind of offending behaviour and that it has the tools at its disposal to do that. What we absolutely do not do in that situation is leave these people at large in the community potentially to carry out their actions.

There is provision here for things like prohibition on foreign travel, but in a modern, globally interconnected world where there are very many different and complicated ways of communicating and organising, if people are really determined to engage in this kind of behaviour and

they are as organised and motivated as is suggested, a foreign travel order is probably not going to provide a very serious impediment to somebody continuing that behaviour. We really do not feel that that will be an effective way of grappling with the problem. We certainly do not think that we should hold up our hands and say, "No, those responsible for enforcing the law in this country are simply unable to tackle this problem." If more resources are the issue, I guess that is a separate issue and something that should be addressed. We do not think the answer is leaving people at large to continue this behaviour or that a few restrictions will alleviate the situation.

Q465 Michael Connarty: How many convictions have we had in the UK for slavery?

Rachel Robinson: We understand that the conviction rates are low. I am afraid that I do not have the statistics; Liberty does not monitor implementation. We do not work or represent people within the criminal justice system, but we understand—from organisations that we work with closely and that provide services to, and work closely with, these individuals—that there are very many reasons why we are not getting the kind or number of prosecutions that we should be getting in this field, because we know that the problem is much greater than is represented in the criminal justice system.

I reiterate the points I made earlier about looking at the wider social context—the visas we have for domestic workers, the confidence victims have in the criminal justice system, how they feel they will be compensated if they come forward and whether they will be able to access legal advice and representation in all circumstances, which is an absolute necessity. There is a whole array of broader reasons why victims are not coming forward as much as they could. I will not talk about this at length, but I understand that others who have commented on the Bill have suggested that they would have liked to see more of a focus on victims in its provisions. And—

Chairman: Can I get you to pause there? Ian wants to come in quickly and we are out of time.

Q466 Lord McColl of Dulwich: Do we know whether the inquisitorial system in France is more successful in securing prosecutions?

Rachel Robinson: I am afraid that I do not know whether or not it is. I know that the situation in France was originally the situation that precipitated our movement towards an offence that reflects the positive obligations on the state under article 4 of the convention.

Q467 Baroness Doocey: I am a little bit concerned about your response, particularly the comment you made to Michael about the police. I do not think it is quite as simplistic as you have perhaps tried to make out. Just throwing more resources at every police officer who has a suspicion of something will not help. Your answer was a little bit simplistic. There are major problems to do with police suspecting that trafficking is going on or about to go on. Just saying that we need to rely on the police to do their job is not really an accurate statement of the situation on the ground.

Rachel Robinson: I am sure that it is more complicated than providing more resources. The point that I really wanted to get across is that we should not give up on these tried-and-tested methods of dealing with really serious offending behaviour. If there are specific problems that the police are facing in being able to apprehend or to get involved in this, those should be looked at and addressed wherever possible. We do not feel that the answer to this is to leave people at large potentially to continue their activities.

Baroness Doocey: It is not tried and tested because the problem is that we are not getting the prosecutions that we need. I think that is far too simplistic.

Q468 Chairman: Would a summary be that Liberty has a huge historic mission about freedom and that if people want to push other ideas that impinge on that, they should come before us and argue them, but we should not expect Liberty to do so?

Rachel Robinson: Absolutely—

Q469 Chairman: That is how politics works, isn't it?

Rachel Robinson: It is. Liberty makes arguments about freedom, but we are also prepared to stand here and say that our concerns very much span effective prosecution and dealing with wider social interests. In fact, our whole human rights framework is about balancing individual rights with wider social interests. We try to engage on that basis.

Chairman: I was aware of how you were tiptoeing towards that twilight zone, for which we are grateful. Thanks for your evidence, which was really good.

Examination of Witness

Witness: **Richard Monkhouse**, Chairman, Magistrates' Association, examined.

Q470 Chairman: Richard, welcome. Would you identify yourself for the record, please?

Richard Monkhouse: I am Richard Monkhouse. I am a magistrate from Greater Manchester. I am currently chair of the Magistrates' Association.

Q471 Chairman: Do you want to make a brief comment before Norman begins our questions?

Richard Monkhouse: I am different from the previous witnesses because I am neither a lawyer nor a campaigner. We sit in court and have to do what we are asked to do and to do it fairly, with the appropriate evidence. I do not want to say very much about the Bill; I want to comment just on the practical aspects of it as far as we are concerned.

Q472 Lord Warner: It is quite clear from what we have heard so far that civil prevention orders arouse fairly considerable passions, but you and your colleagues hear quite a lot of applications for civil prevention orders on a day-to-day basis. Can you give us some idea of how frequently they are part of your diet? What is the most common type of such orders, and how often do you find they are breached?

Richard Monkhouse: As a youth court magistrate, I suppose that until very recently ASBOs were the flavour of the month, but that is no longer the case. ASBOs are slightly different from these because they are asked for only after a long period of investigation and work between the Youth Offending Service and the individual. You have to get to a stage where all of that work has yielded nothing, so that they come to a court for a civil order and say, "We want you to place this order to prevent this young person normally, although not exclusively, from doing x, y and z." They are normally not contested. The only contest is about the terms of the order.

In the early days, some of those were—if I can use the expression—barking mad. The proposition was setting people up to fail. Over time, as ASBOs developed, there was an increasing move towards making the conditions much more appropriate and policeable, and preventing that behaviour from destroying neighbourhoods. It still did not work terribly successfully. The previous witness said something about a 57% breach rate, but does that mean that 57% of all orders are breached or that all of the orders are breached 57% of the time? The two are

different. You have an awful lot of people who repeatedly breach orders, some for quite ridiculous reasons. That is not to say that they should not be upheld.

Q473 Lord Warner: Are we still on juveniles?

Richard Monkhouse: No. ASBOs are predominantly juvenile, but not exclusively. Some of the conditions were not terribly sensible. I would say that now the most frequent order is a restraining order relating to domestic violence. Those come most often following a conviction. Even where a conviction has not been made, sometimes they are still asked for and sometimes they are granted, because there is behaviour leading up to the specific incident the offender is charged with that says to us, "There needs to be some sort of protection here for the victim," even though that particular case has not yielded a conviction. Those are the most frequent ones we get.

In my part of the world, the football banning order is quite common. It is almost always objected to. The football enthusiast, shall I say, does not mind pleading guilty. They do not mind the fine or the community order, if it gets to that level, but they really object to a court saying, "You can't go and watch a football match," so the orders are almost always objected to. They are probably granted 60% or 70% of the time, because sometimes they are asked for because of over-exuberant behaviour that a football fan would understand but somebody who is not a football fan would not. That is why the make-up of the bench of three who normally see these is quite good, because you get that mix on the bench and can have a discussion about whether it is an appropriate sanction for somebody not to be able to go and watch a football match for a long period of time—it is for three years.

Q474 Lord Warner: You seem to be saying that they are a useful weapon in the armoury of the courts, alongside criminal orders and prosecutions.

Richard Monkhouse: I think they are. Other than ASBOs, we do not see them breached an awful lot, except where another offence has been committed. That is particularly true of restraining orders. When somebody comes back to court for a further event of domestic violence, there will be a breach of the restraining order as well. You do not find them without that. Somebody does not come back and say, "They have breached the restraining order. We want you to take appropriate action."

Q475 Lord Warner: In all these cases, are those applying for the order usually professional witnesses rather than victims?

Richard Monkhouse: Increasingly not. They used to be, but with the changes in legal aid, people are now coming without the ability to have a professional advocate to plead in their case. Often, particularly with football banning orders, you will get the individual talking about what they perceive as common sense, but it is not a “not guilty” plea but a “guilty” plea with mitigation. There is that lack of understanding. We see it quite a lot.

Q476 Baroness Hanham: I was formerly a magistrate, so I understand what you are saying about the bench of three. The orders you have been talking about are really very personal and direct. You can make an ASBO because the person next door is driving you mad with their drums, their children are outside or whatever. Domestic violence is very clearly directed at one person. The orders that are now gradually coming out in various bits of legislation, which these would replicate, are much wider than that, because they may be not just for an individual.

First, what sort of evidence would you need for a stand-alone order? Under this Bill, you would have to be given the evidence by either a chief of police or by somebody from the National Crime Agency, so you would not be in the position where someone was just asking for their next-door neighbour to be stopped. How much evidence would you need where there had not been a criminal conviction but you were being asked to place, effectively, a restraining order on somebody who might potentially be about to commit an offence?

Richard Monkhouse: It is quite difficult. We would have to understand what the risk was. What is the risk that we are trying to prevent? That needs to be laid down quite clearly. There needs to be some clarity in the law so that we know exactly what we are facing.

As you will know, having been a magistrate, we come across these in bail cases, where we are imposing conditions on people who have not been convicted, but we are trying to prevent the risk of something happening. There we have the Bail Act to help us. The Bail Act is quite clear that everybody is entitled to bail unless, in the first two cases, they commit crimes while they are on bail, which we will know—it will be a fact—or they do not turn up at court. Again, we cannot work on that without the evidence that that has happened in the past.

The only one that we really have to consider is where we come across the potential for interfering with witnesses. Again, domestic violence is a classic example of that. We need to know that the alleged victim will be free from interference—or worse—by the alleged perpetrator. We have the mechanics to do that—it is quite simple—but we need the evidence that that is likely to happen, because the Bail Act says, “If there isn’t a risk, you can’t impose these conditions.”

Q477 Baroness Hanham: I am not at all maligning what you are saying, but we are a bit more at the serious end of the spectrum. These orders are civil orders to a standard of criminal proof. Does that make any difference in terms of how magistrates consider them?

Richard Monkhouse: I do not think so. We do not have any great difficulty in doing that. We have advice from our legal advisers to tell us what the law actually says; we work very much as a team. There is not terribly much of a problem there.

The problem that I see is one that was echoed by the first two witnesses—that is, if there is not any evidence to lead to a prosecution, is there any evidence to lead to an STRO? Where is that line drawn? If it is at criminal proof, it is at a very high level—beyond reasonable doubt. There will need to be clarity about what the potential risk is and specific evidence that that risk is in danger of materialising. I rely on the agencies that bring cases to court to provide that properly; I think we all do.

Q478 Baroness Hanham: With these really serious ones, you do not require the defendant or the defendant's representative to be there—you can make the decision based solely on the information presented to you.

Richard Monkhouse: We can. It is always helpful for there to be a defence presence—

Q479 Baroness Hanham: But it is not necessary.

Richard Monkhouse: No, it is not necessary. I suppose this brings us into the area of uncontested cases. If no defence has been put forward, is the case actually being contested? That makes the decision much easier. Where there is a contest and arguments are put backwards and forwards, you need to be pretty certain that there is enough evidence to say, "Yes, we are placing this order."

Q480 Baroness Hanham: But if it is uncontested, you will still have to reach that burden of evidence.

Richard Monkhouse: Yes.

Q481 The Lord Bishop of Derby: How frequently are civil orders used in relation either to sentencing or as a stand-alone complaint?

Richard Monkhouse: In almost every situation—with the exception of ASBOs, which are almost always stand-alone; the criminal ASBO crept

up on us, but it is not used an awful lot—there is a criminal conviction. The order follows or goes along with that conviction.

Q482 The Lord Bishop of Derby: So your experience is in terms of sentencing rather than trying to predict risk.

Richard Monkhouse: Yes. Very often, if a domestic violence case has been brought and has been proven, we will nudge the prosecution and say, “Are you asking for a restraining order?” We will put that forward as an option rather than wait for them to suggest it. There is a bit of geographic variability in that, but in general it is good practice to say, “Are you asking for a restraining order as well?”

Q483 Chairman: When Liberty gave us evidence, they used a marvellous phrase. They said that we started off with antisocial behaviour orders against yobbos—although they did not use that term—and that those “bled” into other areas. Do you think it is appropriate that this approach should be bled into this area?

Richard Monkhouse: To be perfectly honest, when we were first asked to come before this Committee we were a bit perplexed, because we did not think that the seriousness of it met our pay grade; we believed that it was above our pay grade, so we have not really gone into that area. I do not recognise that it has bled into other areas. I recognise that there are specific types of order, some of which have been more successful than others. Other than for ASBOs, we do not see an awful lot of breaches. We do not see breaches of football banning orders or of restraining orders, unless there is a specific further offence. I do not see this as having bled into other areas.

Q484 Chairman: If your association had been asked by the Home Secretary when she was drawing up this Bill about the main thrust of the Bill, which is to try to be effective in prosecuting slave owners for their horrible deeds, and about the approach in section 2, would your advice have been to have two Bills?

Richard Monkhouse: I am not a lawyer, but probably. My gut feeling is that there should have been a distinction, because the two are at very different levels. The risk order is one thing, but once you get into this kind of behaviour it is getting to be very serious. It would have been helpful to separate out the two things.

Chairman: You have been immensely helpful; thank you very much. I am sorry—Caroline has a question.

Q485 Mrs Spelman: It is a small point. I have found this very interesting. Magistrates have played a very important role in helping to tackle domestic violence. There is very clear evidence that the training that magistrates have received, together with their knowledge of the communities that they serve, has almost definitely saved lives. The parallel you use has an interesting mirroring, because the restraining orders that you are being asked to put on may well prevent a homicide. You are dealing with potential for serious crime. Most murder is domestic—two women a week die as a result of domestic violence. You deal with the foothills of that serious offence extremely well. It seems from the Bill that, in a way, the Government are thinking that you could do the same in this area. Of course it goes further, to become very serious, but ultimately you are dealing with really professional criminals engaged in very serious matters of crime. Do you want to revisit that parallel?

Richard Monkhouse: We assist enormously in our bail decisions as well, because we are the main arbiters of bail. The police initially put bail on; we then rethink it, because police bail is often counter-productive—for the best of intentions. That is where I think the parallels need to be drawn. There is the parallel of looking at a case management hearing for a domestic violence case and the implication of risk along the road, knowing full well that this is probably not the first occasion that some domestic violence has been perpetrated, that witnesses do not like to come to court and that it is about how we can manage that an awful lot better than we do—we do it reasonably well, but there is much more that we could do—but I think this is different. I do not anticipate seeing many of these orders. Maybe I am wrong, but I do not see that they will be brought to magistrates courts on a particularly frequent basis. I have no evidence or statistics for that, but I have a gut feeling that this is still above our pay grade.

Mrs Spelman: Very interesting.

Q486 Baroness Hanham: One of the reasons given for having the risk orders was that they might put a stop to, or delay, something while other evidence was collected—that they would help the police by giving them time. Could you not do that under bail?

Richard Monkhouse: We could. There are parallels in HMRC cases from airports. When cash has been seized, we will make an interim order to give the police time to investigate that, normally for up to six months. If they have found £50,000 in somebody's sock in a case and think that is suspicious, they will come to court and say, "We can't bring a case now. We need time." Because Manchester airport is in our area, we see an awful lot of those; it is something we are quite used to dealing with.

Even there, we need an awful lot of evidence to say, "This isn't malicious or willy-nilly. There are serious concerns about this cash. There needs to be time." I see this as that sort of thing; it is much more about the fact that we know things may well happen. I suspect that they would not want to reveal too much in a public hearing, prior to an investigation taking place. That is why I suspect we will not see a lot of these orders, because they will go down that road a lot further. Once they have got down that road, they will get towards a prosecution rather than a risk order.

Chairman: I will thank you again, Richard. It is interesting that all our witnesses have put a powerful case about defending liberty, yet in the Bill we are also really anxious about seizing assets. We want to get in as early as possible to get hold of the assets. As a Committee, we will have a tension about how to get a consistent approach, first, on the individual side, and, secondly, where we think there is a slave owner and want to get hold of their assets. Your evidence today has been really helpful to us, as the other two sessions were.

Baroness Hanham: I am really sorry to come back in—

Chairman: I will have to thank you for a third time, Richard.

Q487 Baroness Hanham: Are the decisions that you make about collecting people's assets or property pre-conviction or post-conviction?

Richard Monkhouse: Pre-conviction. I have seen cases where the case that is going to be brought is one where someone has 53 passports in their back pocket. That could well link into this sort of area. The assets and passports are seized pre-conviction.

Chairman: As we are in open season, Michael wants to come in.

Q488 Michael Connarty: You have expressed the opinion that you will not see many of these in a magistrates court, but clauses 11 to 25 are entirely about these orders, in different forms, so clearly the Home Secretary has a vision of their being used quite a number of times as a way of assisting the police, to stop the clock so they can do their job and, possibly, get the conviction. We have heard Liberty say that that is not the way to do it, but would magistrates be able to cope if they really were used a lot? Do they need training in this huge area?

Richard Monkhouse: They need guidance rather than wholehearted training, given that the Judicial College has very little money and very few staff. Domestic violence training was absolutely brilliant, and we are still doing it. For something like this, which is very specific, guidance would be sufficient. Legal advisers may need the training; I

suspect that we do not. We are used to dealing with evidence all the time, quite rapidly and in a wide variety of cases. I honestly do not think we would have a difficulty with it.

Chairman: Richard, I will close the session without thanking you again.